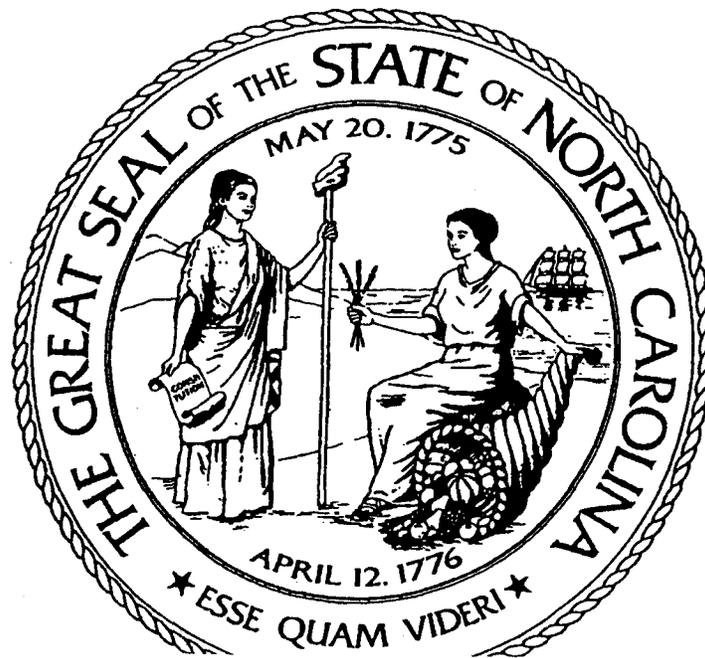


**JOINT LEGISLATIVE  
TRANSPORTATION OVERSIGHT  
COMMITTEE**



**REPORT TO THE  
1997 GENERAL ASSEMBLY  
OF NORTH CAROLINA  
1997 REGULAR SESSION**

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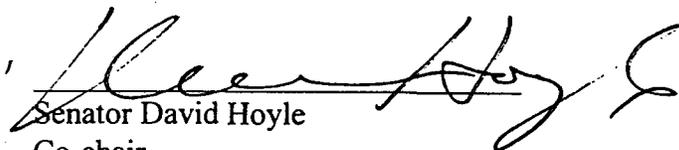
January 29, 1997

TO THE MEMBERS OF THE 1997 GENERAL ASSEMBLY (REGULAR SESSION);

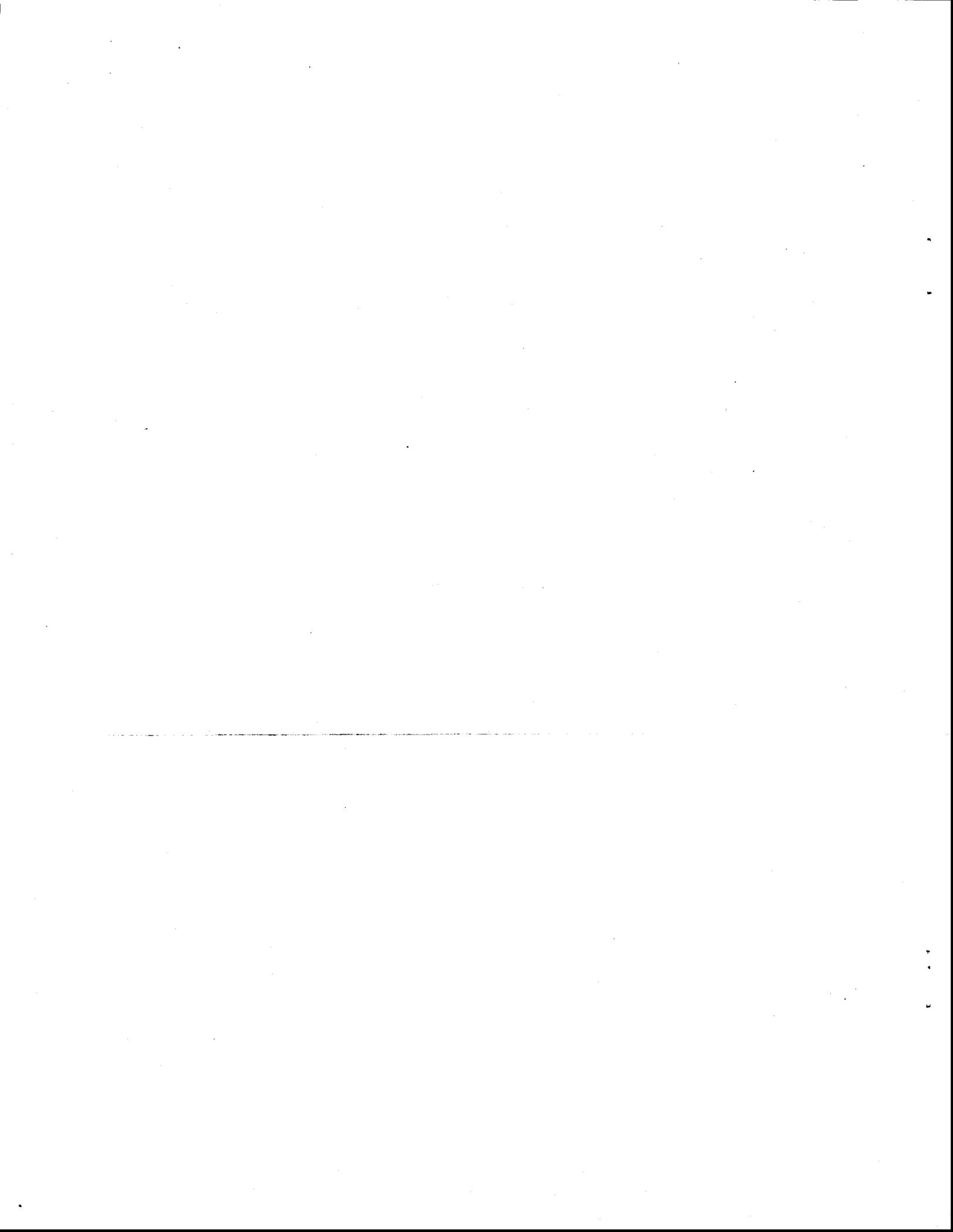
The Joint Legislative Transportation Oversight Committee submits its annual report to you for your consideration. The report was prepared by the Committee pursuant to G.S. 120-70.51(a).

Respectfully submitted,

  
\_\_\_\_\_  
Representative Joanne Bowie  
Co-chair

  
\_\_\_\_\_  
Senator David Hoyle  
Co-chair

Joint Legislative Transportation Oversight Committee



**JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE  
MEMBERSHIP  
1995 - 1997**

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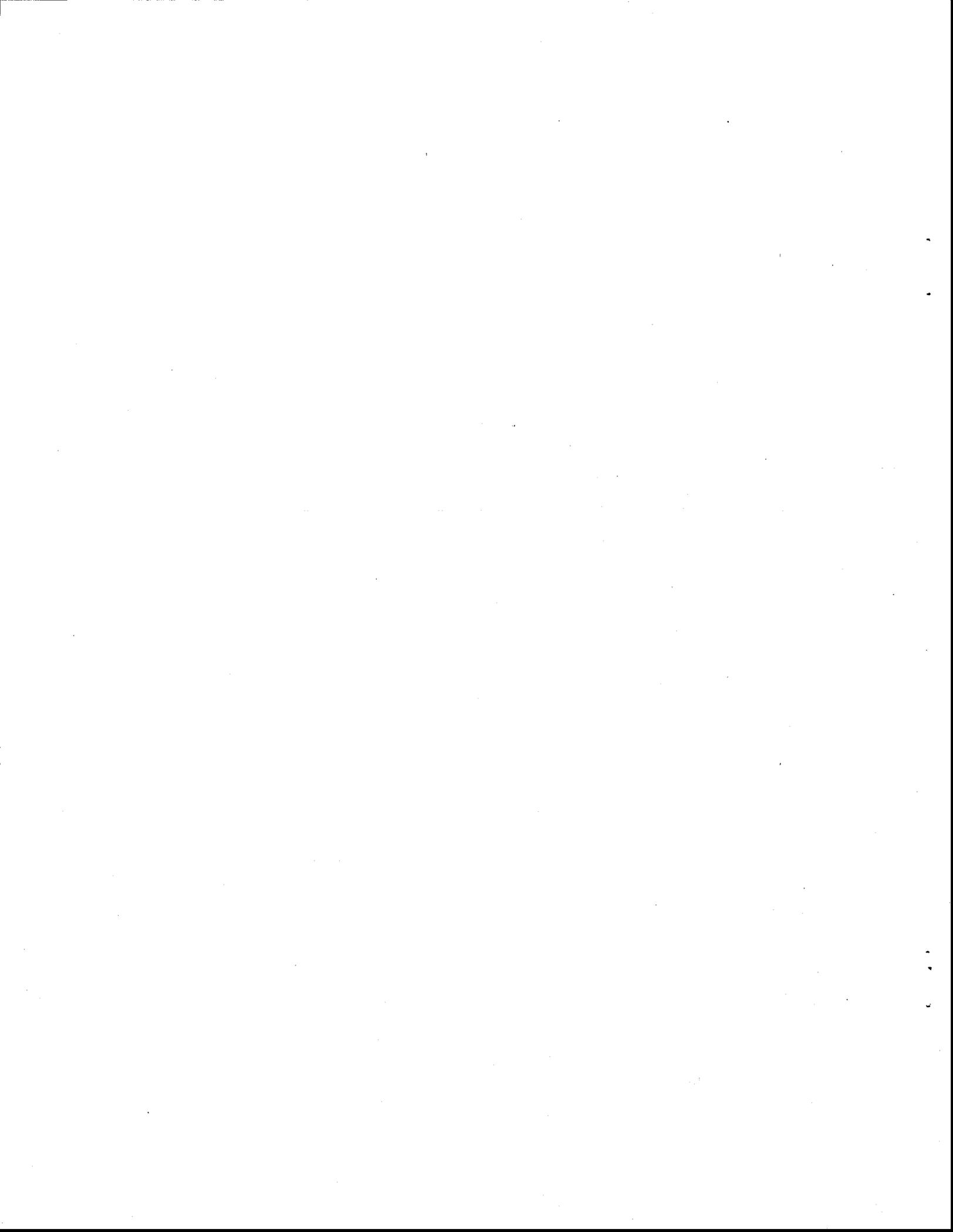
Rep. John B. McLaughlin  
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**Clerk:**

Ms. Sharon Gaudette  
(919) 733-5853

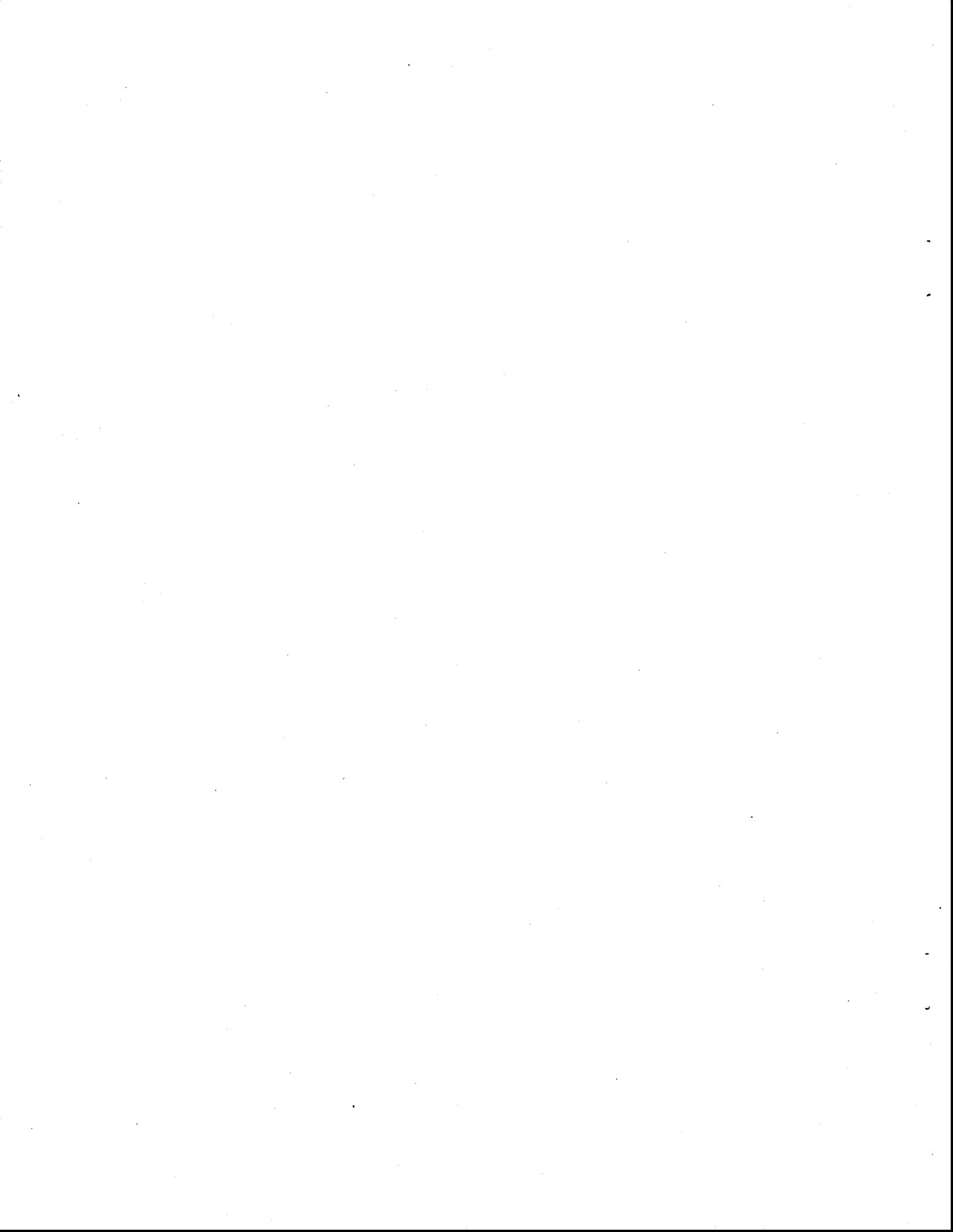


## PREFACE

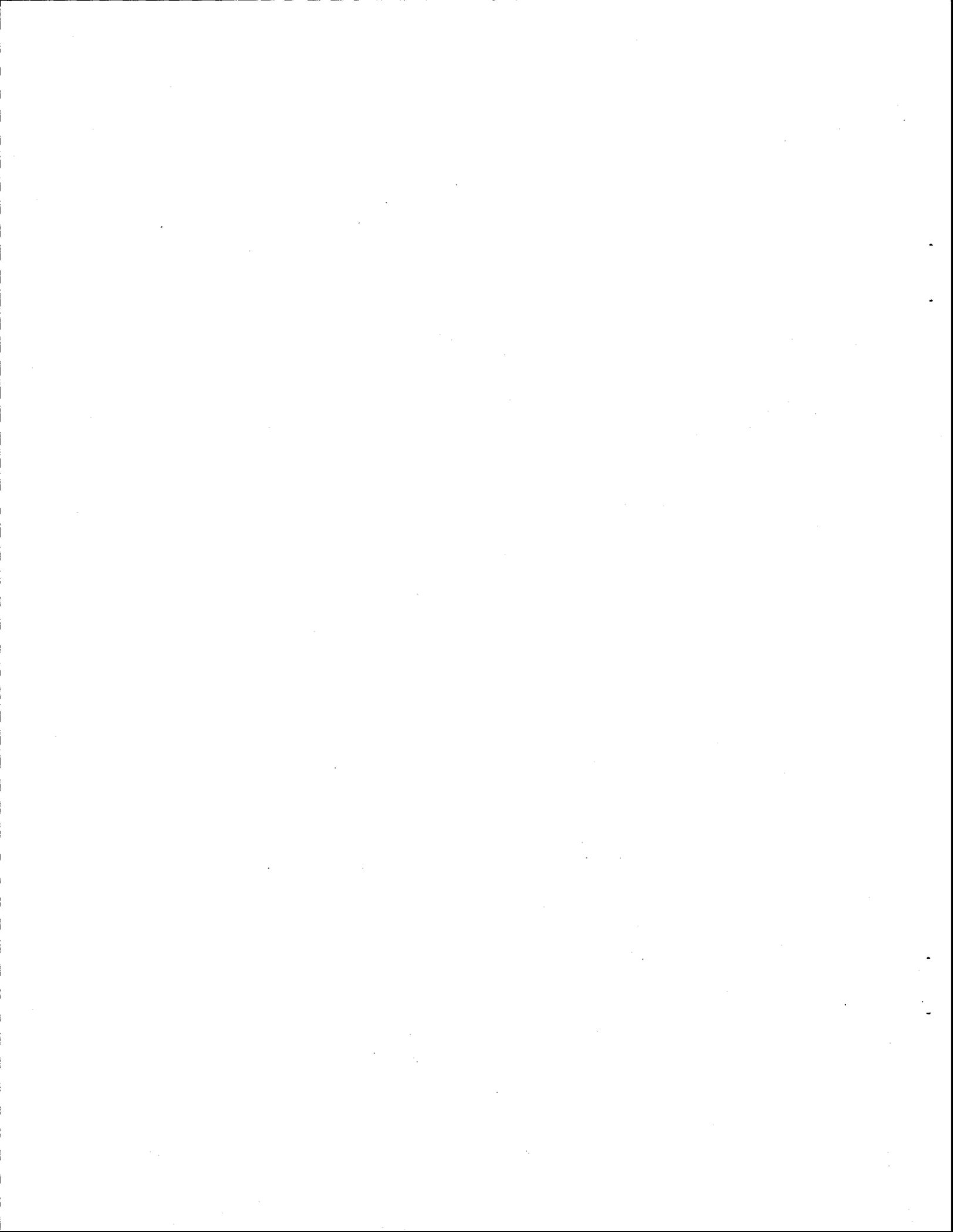
The Joint Legislative Transportation Oversight Committee was established in 1989 by Article 12E of Chapter 120 of the General Statutes. The Committee was formed in conjunction with the creation of the Highway Trust Fund. The Committee consists of eight members of the Senate appointed by the President Pro Tempore of the Senate and eight members of the House of Representatives appointed by the Speaker of the House of Representatives. Members serve two-year terms.

The Committee's oversight powers are broad, as quoted from G.S. 120-70.51(a):

- Review reports prepared by the Department of Transportation or any other agency of State government related, in any manner, to transportation, when those reports are required by law.
- Monitor the funds deposited in and expenditures from the North Carolina Highway Trust Fund, the Highway Fund, the General Fund, or any other fund, when those expenditures are related, in any manner, to transportation.
- Determine whether funds related, in any manner, to transportation are being spent in accordance with law.
- Determine whether any revisions are needed in the funding for a program for which funds in the Trust Fund, the Highway Fund, the General Fund, or any other fund when those expenditures are related, in any manner, to transportation may be used, including revisions needed to meet any statutory timetable or program.
- Report to the General Assembly at the beginning of each regular session concerning its determination of needed changes in the funding or operation of programs related, in any manner, to transportation.



**COMMITTEE  
PROCEEDINGS**



Following the 1996 Regular Session and Second Extraordinary Session of the General Assembly, the Committee met four times from September 1996 to January 1997. The Committee examined a variety of topics, as summarized below.

### **September 4, 1996**

The first meeting of the Committee following the 1996 Short Session and Second Extraordinary Session was held on September 4, 1996 at 9:00 a.m. in Room 544 of the Legislative Office Building.

The Committee heard an update on the implementation of the State Titling and Registration System (STARS) from DOT Deputy Secretary Frederick Aikens and Carol Howard, Director of the DMV Vehicle Registration Section. The update indicated that the system had missed its scheduled May 1996 implementation date, and that a conflict with the implementation of the digitized driver license system had further delayed the STARS implementation until November 12, 1996. The Committee also heard from Mercidee Benton, DOT Director of Administration on plans for improvement of the DOT accounting system over the next five years. The plans were formulated in conjunction with the Office of State controller and will begin with a Business Practice Review of DOT financial procedures. Committee staff provided briefings on the several topics including: 1) actions of the General Assembly on transportation legislation and appropriations during the Short Session and Extra Session; 2) 1995-96 Highway Fund revenues and expenditures; and 3) the schedule of reports that would be made to the committee by DOT prior to the 1997 legislative session.

The Committee also heard a presentation by State Highway Administrator Larry Goode on changes in speed limits on State highways and on the accident in a DOT work zone on I-85. Mr. Goode provided maps and charts indicating where speed limit changes were planned and indicated that current driver speeds served as a guide to the establishment of new speed limits. Finally, the Committee heard a presentation on public involvement in the DOT planning and design process by Calvin Leggett, DOT Director of Planning and Programming.

### **November 14, 1996**

The second meeting of the Committee was held on November 14, 1996 at 10:00 a.m. in Room 544 of the Legislative Office Building.

The Committee heard a report from DOT Deputy Chief Engineer C.A. Gardner on the efforts of DOT employees in response to Hurricane Fran, which indicated that over 3,500 DOT employees had participated in the removal of over 5,000,000 cubic yards of debris at an unreimbursed cost of over \$30 million. Committee staff presented information on two concerns about the DMV enforcement section that were raised by the performance audit of DMV conducted in the spring of 1996. The presentations focused on the effect of DMV's rest area security program on its weight enforcement activities and on the amount of time devoted to carrying out revocation orders. A subcommittee chaired by Senator Gulley and Representative McMahan was appointed to investigate possible changes to revocation order procedures.

Committee staff provided information on the North Carolina Railroad Company and recent legal actions that have invalidated the lease of the railroad to Norfolk Southern. State Highway Administrator Larry Goode presented the quarterly report on construction contracts financed through use of cash flow procedures. Committee staff presented an update on the effectiveness of the 1995 legislation to change the point of motor fuel taxation to the terminal rack. The presentation indicated that motor fuel tax revenues had increased as expected as a result of the legislation. Major Jerry Arrowood of DMV Enforcement presented a mandated report on changes to the salvage vehicle inspection laws. The report proposed that only salvage vehicles that are less than six model years old be inspected and indicated that this could cut salvage inspections in half. Committee staff was instructed to prepare draft legislation for the next meeting that would amend the salvage statutes. Deputy Secretary Frederick Aikens presented plans for studies of technology improvements at DMV, as required by statute. Mr. Aikens also demonstrated the DMV automated voice response system for answering telephone inquiries. Wayne Hurder, Director of the DMV Driver License Section presented a mandated report on the section's efforts to create a formula for the allocation of driver license offices throughout the State. Final presentation of the formula was promised before the 1997 legislative session.

#### **December 12, 1996**

The third meeting of the Committee was held on December 12, 1996 at 10:00 a.m. in Room 544 of the Legislative Office Building.

The Committee heard the report of the subcommittee on DMV revocation orders, which indicated that it needed further time to examine the issue. Committee staff presented information on the length of driver license renewal periods in other states, which indicated that North Carolina's five-year period is above the national average. Duane Smith, DOT Management Information Systems staff, presented a mandated report on improvements that should be made to DMV's International Registration Plan software, which indicated that improvements to the system would cost \$855,400 for 1997-98 and \$1,422,000 for 1998-99. Mr. Smith also presented a mandated report on the Department's use of contract programmers for maintenance of the driver license and vehicle registration computer systems. The Department recommended that the use of contractors be continued, but at a reduced level.

Don Goins, DOT Chief Engineer, presented reports on the maintenance backlog and maintenance funding. The Committee discussed the performance of the Department at improving road conditions and asked for further information on the topic. The Committee considered draft legislation on salvage inspection changes, emissions penalties, and driver license privacy, but took no action regarding any of the legislation. The Committee also heard from the Department's Legislative Liaison, Ruth Sappie, concerning several legislative proposals that the Department would like the Committee to consider. The Committee agreed to review draft bills at the January meeting. The Committee expressed its support for a proposal, presented by State Highway Administrator Larry Goode, to use proceeds of a surplus property sale to build additional salt facilities and make renovations at an airport facility in Edenton.

January 15, 1997

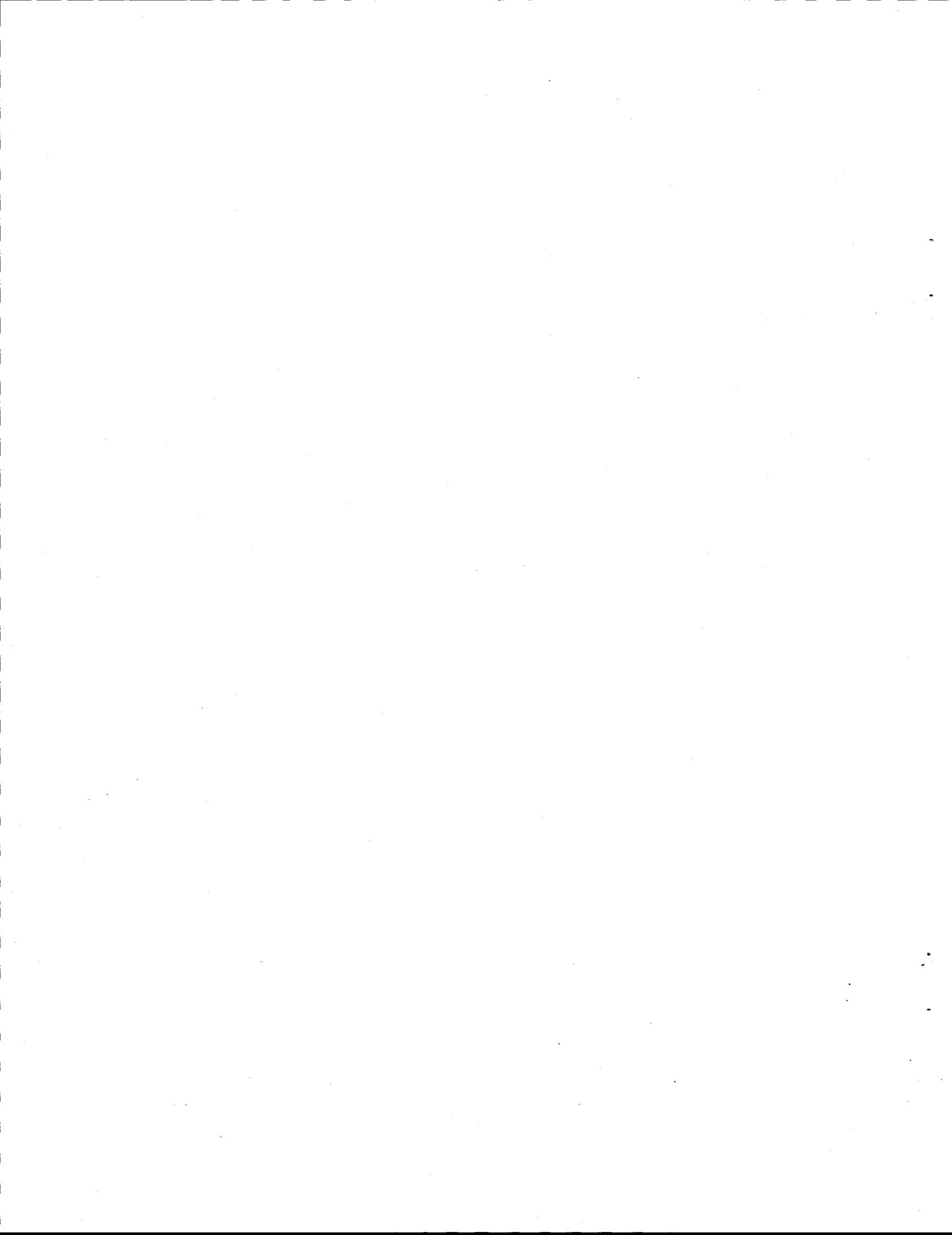
The final meeting of the Committee before the 1997 Session of the General Assembly was held on January 15, 1997 at 10:00 a.m. in Room 643 of the Legislative Office Building.

The Committee heard a report by Deputy Secretary Frederick Aikens on DOT's efforts to implement recommendations of the DMV performance audit. The report indicated that some progress had been made in the areas of automation but that implementation of many recommendations remains incomplete. In response to a legislative mandate to study the funding of driver education programs, Committee staff presented a report on the subject. Deputy Chief Engineer C.A. Gardner presented a mandated report on implementation of the Green Roads initiative to plant trees along State highways. The report indicated that only 300 of the planned 700 acres could be planted this year due to a shortage of seedlings.

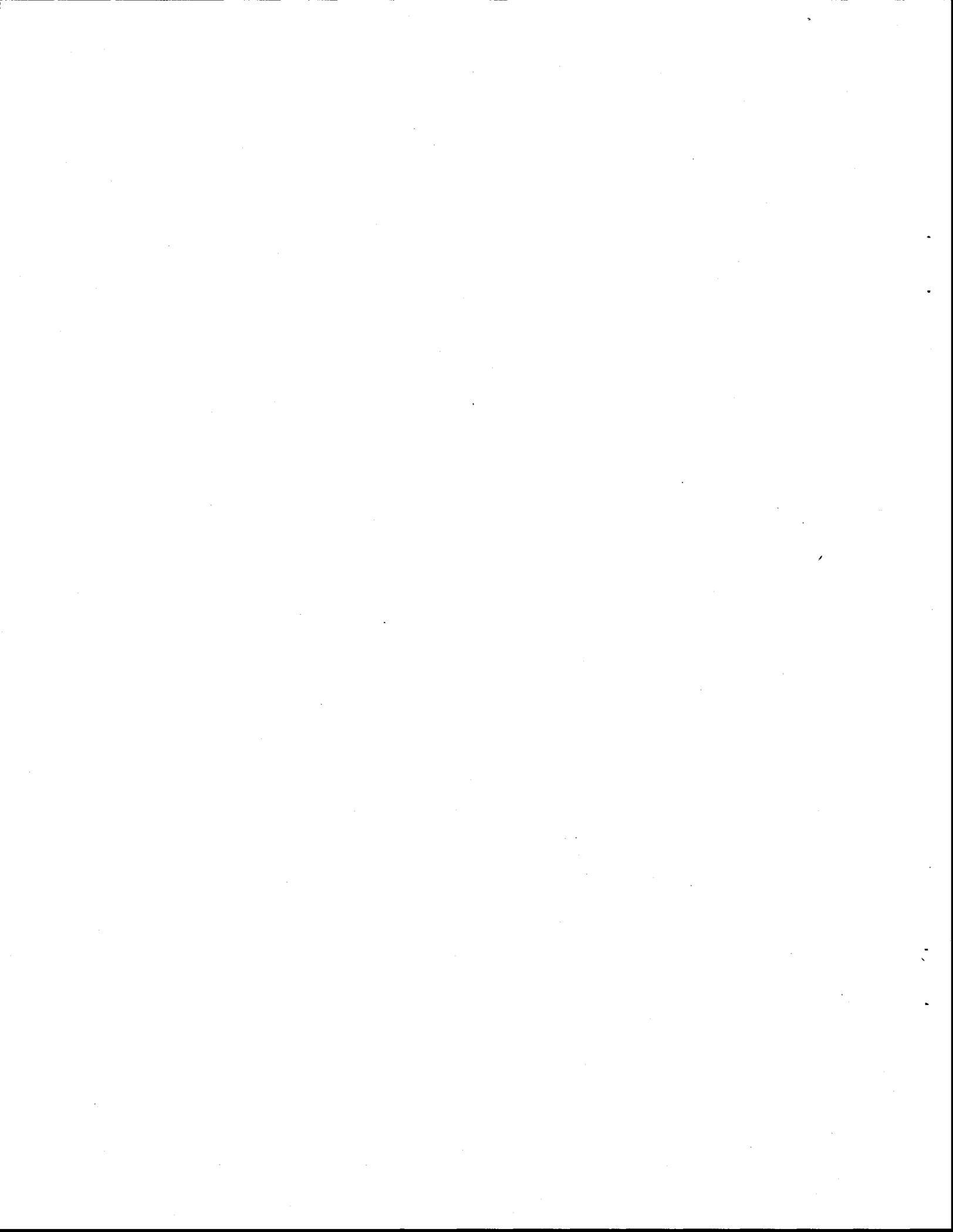
The Department's Legislative Liaison, Ruth Sappie, presented a mandated report on the funding of visitor centers, which recommended that no more centers be built, that State funding for one center be eliminated, that all remaining centers should pay their own utility costs, and that State welcome centers should be transferred from the Department of Commerce to the Department of Transportation. The Committee heard a report on asphalt quality issues from Deputy State Highway Administrator B.G. Jenkins. Committee staff presented the quarterly cash flow construction report. Wayne Hurder, Director of DMV's Driver License Section presented the final version of the mandated driver license office plan, which included recommendations for closure of some offices and staffing changes at others.

The Committee considered and approved legislation on the following matters:

- 1) expanding the definition of out-of-state driving convictions;
- 2) extending the renewal period for driving instructor licenses to two years;
- 3) allowing tag agents to receive compensation for collecting emission inspection civil penalties;
- 4) reducing motor vehicle salvage inspections;
- 5) reducing the number of DMV inspectors;
- 6) removing the fee for mail-in renewal of registration;
- 7) establishing a standard time of 60 days to change or obtain driver license and registration information;
- 8) making technical changes of laws related to mopeds;
- 9) converting the DMV commissioner position to a Deputy Secretary;
- 10) modifying emissions inspection laws;
- 11) requiring safety and emissions inspectors to fully collect fees; and
- 12) resolving to oppose implementation of the Federal Driver License Privacy Protection Act and indemnify State employees for legal costs arising from noncompliance with the Act.



**RECOMMENDATIONS  
&  
LEGISLATIVE PROPOSALS**



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 1  
97-LJX-012(1.2)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: 2-year Driver Instructor License.

(Public)

---

Sponsors: Transportation Oversight.

---

Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE FROM ONE YEAR TO TWO YEARS THE RENEWAL PERIOD  
3 FOR LICENSES ISSUED TO COMMERCIAL DRIVER TRAINING SCHOOLS AND  
4 INSTRUCTORS AND TO ADJUST THE RENEWAL FEES ACCORDINGLY.  
5 The General Assembly of North Carolina enacts:  
6 Section 1. G.S. 20-324 reads as rewritten:  
7 "§ 20-324. Expiration and renewal of licenses; fees.  
8 ~~All licenses issued under the provisions of this Article shall~~  
9 ~~expire on the last day of June in the year following their~~  
10 ~~issuance and may be renewed upon application to the Commissioner~~  
11 ~~as prescribed by his regulations. Each application for a new or~~  
12 ~~renewal school license shall be accompanied by a fee of forty~~  
13 ~~dollars (\$40.00), and each application for a new or a renewal~~  
14 ~~instructor's license shall be accompanied by a fee of eight~~  
15 ~~dollars (\$8.00). The license fees collected under this section~~  
16 ~~shall be used under the supervision and direction of the Director~~  
17 ~~of the Budget for the administration of this Article. No license~~  
18 ~~fee shall be refunded in the event that the license is rejected,~~  
19 ~~suspended, or revoked.~~  
20 (a) Renewal. -- A license issued under this Article expires  
21 two years after the date the license is issued. To renew a

1 license, the license holder must file an application for renewal  
2 with the Division.

3 (b) Fees. -- An application for an initial license or the  
4 renewal of a license must be accompanied by the application fee  
5 for the license. The application fee for a school license is  
6 eighty dollars (\$80.00). The application fee for an instructor  
7 license is sixteen dollars (\$16.00). The application fee for a  
8 license is not refundable. Fees collected under this section  
9 must be credited to the Highway Fund."  
10 Section 2. This act becomes effective July 1, 1997.

#### Explanation of Proposal

This proposal changes the renewal cycle for commercial driver training schools and instructors in those schools from one year to two years. The proposal adjusts the renewal fees accordingly by doubling the current annual renewal fees. The proposal also puts the renewals on a staggered basis so that licenses expire two years after they are issued. Under current law, all licenses expire annually on June 30. The proposal was requested by the Division of Motor Vehicles.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 2

97-LJ-011

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Out-of-state Driving Conviction.

(Public)

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Sponsors: Transportation Oversight.

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Referred to:

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- 1                                   A BILL TO BE ENTITLED  
2 AN ACT TO INCLUDE A NO CONTEST PLEA IN THE DEFINITION OF AN OUT-  
3 OF-STATE DRIVING CONVICTION.  
4 The General Assembly of North Carolina enacts:  
5       Section 1. G.S. 20-4.01(4a) reads as rewritten:  
6       "(4a)       Conviction. -- A conviction for an offense  
7                   committed in North Carolina or another state:  
8           a.    In-State.    When referring to an offense  
9                   committed in North Carolina, the term means  
10                  any of the following:  
11                  1.   A final conviction of a criminal offense,  
12                       including a no contest plea.  
13                  2.   A determination that a person is  
14                       responsible for an infraction, including  
15                       a no contest plea.  
16                  3.   An unvacated forfeiture of cash in the  
17                       full amount of a bond required by Article  
18                       26 of Chapter 15A of the General  
19                       Statutes.  
20                  4.   A third or subsequent prayer for judgment  
21                       continued within any five-year period.

- 1                   b.    Out-of-State.   When referring to an offense  
2                   committed outside North Carolina, the term  
3                   means any of the following:
- 4                   1.    An unvacated adjudication of ~~guilt,~~  
5                   guilt, including a no contest plea.
  - 6                   2.    A determination that a person has  
7                   violated or failed to comply with the law  
8                   in a court of original jurisdiction or an  
9                   authorized administrative tribunal.
  - 10                  3.    An unvacated forfeiture of bail or  
11                  collateral deposited to secure the  
12                  person's appearance in court.
  - 13                  4.    A violation of a condition of release  
14                  without bail, regardless of whether or  
15                  not the penalty is rebated, suspended, or  
16                  probated."
- 17                  Section 2. This act becomes effective November 1, 1997,  
18 and applies to offenses committed on or after that date.

#### Explanation of Proposal

This proposal changes the definition of out-of-state conviction for drivers license purposes. It includes a plea of no contest in the definition. This change makes an out-of-state conviction the same as an in-state-conviction with respect to no contest pleas. Under current law, a plea of no contest is included in the definition of an in-state-conviction but not an out-of-state conviction.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 3

97-LJ-013

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Change Tag Agent Compensation.

(Public)

---

Sponsors: Transportation Oversight.

---

Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO INCLUDE THE COLLECTION OF AN EMISSIONS PENALTY IN THE  
3 LIST OF ITEMS FOR WHICH BRANCH AGENTS OF THE DIVISION OF MOTOR  
4 VEHICLES ARE COMPENSATED.  
5 The General Assembly of North Carolina enacts:  
6           Section 1. Section 155 of the 1993 Session Laws, as  
7 amended by Section 20.1 of Chapter 769 of the 1993 Session Laws  
8 and by Section 18.18 of Chapter 507 of the 1995 Session Laws  
9 (Reg. Sess. 1996), reads as rewritten:  
10 "Sec. 155. The Division of Motor Vehicles of the Department of  
11 Transportation shall compensate a contractor with whom it has a  
12 contract under G.S. 20-63(h) at the rate of one dollar and twenty  
13 cents (\$1.20) for each transaction performed in accordance with  
14 the requirements set by the Division. A transaction is any of  
15 the following activities:  
16           (1) Issuance of a registration plate, a registration  
17           card, a registration renewal sticker, or a  
18           certificate of title.  
19           (2) Issuance of a handicapped placard or handicapped  
20           identification card.  
21           (3) Acceptance of an application for a personalized  
22           registration plate.

- 1           (4) Acceptance of a surrendered registration plate,  
2           registration card, or registration renewal sticker,  
3           or acceptance of an affidavit stating why a person  
4           cannot surrender a registration plate, registration  
5           card, or registration renewal sticker.  
6           (5) Cancellation of a title because the vehicle has  
7           been junked.  
8           (6) Acceptance of an application for, or issuance of, a  
9           refund for a fee or a tax, other than the highway  
10          use tax.  
11          (7) Receipt of the civil penalty imposed by G.S. 20-309  
12          for a lapse in financial responsibility or receipt  
13          of the restoration fee imposed by that statute.  
14          (7a) Receipt of the civil penalty imposed by G.S. 20-  
15          183.8A for an emission inspection violation.  
16          (8) Acceptance of a notice of failure to maintain  
17          financial responsibility for a motor vehicle.  
18          (9) Collection of the highway use tax.  
19          Performance at the same time of any combination of the items  
20          that are listed within each subdivision or are listed within  
21          subdivisions (1) through (8) of this section is a single  
22          transaction. Performance of the item listed in subdivision (9)  
23          of this section in combination with any other items listed in  
24          this section is a separate transaction."  
25          Section 2. This act becomes effective July 1, 1997.  
26

#### Explanation of Proposal

This proposal adds collection of an emissions penalty to the list of transactions for which branch agents of the Division of Motor Vehicles are compensated. Under current law, the registration of a vehicle that was not inspected within 4 months of the required time cannot be renewed without payment of a civil penalty.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 4

97-LJ-14

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Modify Definition of Moped.

(Public)

---

Sponsors: Transportation Oversight.

---

Referred to:

---

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE DEFINITION OF MOPED THAT IS USED IN THE  
3 MOTOR VEHICLE LAWS.  
4 The General Assembly of North Carolina enacts:  
5       Section 1. G.S. 20-4.01(27)d1. reads as rewritten:  
6       "     d1. Moped. -- ~~Vehicles having~~ A vehicle that has  
7           two or three wheels and ~~operable pedals~~ and  
8           equipped ~~with~~ a motor ~~which~~ that does not  
9           exceed 50 cubic centimeters piston  
10          displacement and cannot propel the vehicle at  
11          a speed greater than 20 miles per hour on a  
12          level surface."  
13       Section 2. This act is effective when it becomes law.

Explanation of Proposal

This proposal deletes the requirement that a moped have pedals. Some mopeds that are manufactured now do not have pedals.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 5

97-LJ-15

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: DMV Head Is A DOT Deputy.

(Public)

---

Sponsors: Transportation Oversight.

---

Referred to:

---

1 A BILL TO BE ENTITLED  
2 AN ACT TO IMPLEMENT A RECOMMENDATION OF THE PERFORMANCE AUDIT OF  
3 THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF  
4 TRANSPORTATION BY ELIMINATING THE POSITION OF COMMISSIONER OF  
5 MOTOR VEHICLES AND ALLOWING THE SECRETARY OF TRANSPORTATION TO  
6 DESIGNATE A DEPUTY TO BE THE HEAD OF THE DIVISION.  
7 The General Assembly of North Carolina enacts:  
8 Section 1. G.S. 20-1 reads as rewritten:  
9 "§ 20-1. Division of Motor Vehicles established.  
10 The Division of Motor Vehicles of the Department of  
11 Transportation is established. This Chapter sets out the powers  
12 and duties of the Division. The Secretary of Transportation  
13 shall administer the Division. The Secretary may delegate to a  
14 Deputy of the Department of Transportation or another employee of  
15 the Department any duty of the Secretary concerning the  
16 administration of the Division.  
17 Sec. 2. G.S. 20-2 reads as rewritten:  
18 "~~§ 20-2. Commissioner of Motor Vehicles; Authority to adopt~~  
19 ~~rules.~~  
20 ~~(a) Commissioner and Assistants. -- The Division of Motor~~  
21 ~~Vehicles shall be administered by the Commissioner of Motor~~  
22 ~~Vehicles, who shall be appointed by and serve at the pleasure of~~  
23 ~~the Secretary of the Department of Transportation. The~~

~~1 Commissioner shall be paid an annual salary to be fixed by the  
2 General Assembly in the Current Operations Appropriations Act and  
3 allowed his traveling expenses as allowed by law.~~

~~4 In any action, proceeding, or matter of any kind, to which the  
5 Commissioner of Motor Vehicles is a party or in which he may have  
6 an interest, all pleadings, legal notices, proof of claim,  
7 warrants for collection, certificates of tax liability,  
8 executions, and other legal documents, may be signed and verified  
9 on behalf of the Commissioner of Motor Vehicles by the Assistant  
10 Commissioner of Motor Vehicles or by any director or assistant  
11 director of any section of the Division of Motor Vehicles or by  
12 any other agent or employee of the Division so authorized by the  
13 Commissioner of Motor Vehicles.~~

14 ~~(b) Rules.~~ -- The Commissioner Secretary may adopt rules to  
15 implement this Chapter. Chapter 150B of the General Statutes  
16 governs the adoption of rules by the Commissioner. Secretary."

17 Sec. 3. G.S. 20-3 is repealed.

18 Sec. 4. G.S. 20-4.01(4) is repealed.

19 Sec. 5. G.S. 20-4.01 is amended by adding a new  
20 subdivision in the appropriate alphabetical order to read:

21 "(39a) Secretary. -- The Secretary of the North  
22 Carolina Department of Transportation."

23 Sec. 6. G.S. 20-4.2(2) is repealed.

24 Sec. 7. The following statutes are amended by deleting  
25 the word "Commissioner", the phrase "Commissioner of Motor  
26 Vehicles", the phrase "State Commissioner of Motor Vehicles", or  
27 the phrase "Commissioner of the Division of Motor Vehicles" each  
28 time they appear and substituting the word "Secretary":

29 G.S. 20-4.3

30 G.S. 20-4.4

31 G.S. 20-4.6

32 G.S. 20-4.10

33 G.S. 20-4.20

34 G.S. 20-4.22

35 G.S. 20-7

36 G.S. 20-9

37 G.S. 20-11

38 G.S. 20-13.2

39 G.S. 20-16.1

40 G.S. 20-17.1

41 G.S. 20-19

42 G.S. 20-24

43 G.S. 20-26

44 G.S. 20-29.1

- 1 G.S. 20-30
- 2 G.S. 20-37.12
- 3 G.S. 20-37.16
- 4 G.S. 20-37.23
- 5 G.S. 20-39
- 6 G.S. 20-40
- 7 G.S. 20-41
- 8 G.S. 20-42
- 9 G.S. 20-43
- 10 G.S. 20-43.4
- 11 G.S. 20-45
- 12 G.S. 20-47
- 13 G.S. 20-48
- 14 G.S. 20-50
- 15 G.S. 20-56
- 16 G.S. 20-57
- 17 G.S. 20-61
- 18 G.S. 20-63
- 19 G.S. 20-64
- 20 G.S. 20-64.2
- 21 G.S. 20-66
- 22 G.S. 20-71.2
- 23 G.S. 20-71.3
- 24 G.S. 20-71.4
- 25 G.S. 20-78
- 26 G.S. 20-83
- 27 G.S. 20-84
- 28 G.S. 20-84.2
- 29 G.S. 20-85.1
- 30 G.S. 20-86.1
- 31 G.S. 20-91
- 32 G.S. 20-91.1
- 33 G.S. 20-91.2
- 34 G.S. 20-94
- 35 G.S. 20-97
- 36 G.S. 20-99
- 37 G.S. 20-100
- 38 G.S. 20-108
- 39 G.S. 20-109.1
- 40 G.S. 20-114
- 41 G.S. 20-124
- 42 G.S. 20-125
- 43 G.S. 20-125.1
- 44 G.S. 20-126

- 1 G.S. 20-127
- 2 G.S. 20-128.2
- 3 G.S. 20-129
- 4 G.S. 20-129.2
- 5 G.S. 20-130
- 6 G.S. 20-133
- 7 G.S. 20-135.2
- 8 G.S. 20-135.2A
- 9 G.S. 20-135.2B
- 10 G.S. 20-135.4
- 11 G.S. 20-140.4
- 12 G.S. 20-141.3
- 13 G.S. 20-179.3
- 14 G.S. 20-183.3
- 15 G.S. 20-183.8D
- 16 G.S. 20-183.8E
- 17 G.S. 20-218
- 18 G.S. 20-279.2
- 19 G.S. 20-279.3
- 20 G.S. 20-279.5
- 21 G.S. 20-279.6
- 22 G.S. 20-279.6A
- 23 G.S. 20-279.7
- 24 G.S. 20-279.8
- 25 G.S. 20-279.9
- 26 G.S. 20-279.10
- 27 G.S. 20-279.11
- 28 G.S. 20-279.12
- 29 G.S. 20-279.13
- 30 G.S. 20-279.16
- 31 G.S. 20-279.19
- 32 G.S. 20-279.20
- 33 G.S. 20-279.22
- 34 G.S. 20-279.24
- 35 G.S. 20-279.25
- 36 G.S. 20-279.26
- 37 G.S. 20-279.27
- 38 G.S. 20-279.28
- 39 G.S. 20-279.29
- 40 G.S. 20-279.30
- 41 G.S. 20-279.31
- 42 G.S. 20-279.32
- 43 G.S. 20-279.33
- 44 G.S. 20-281

1 G.S. 20-283  
2 G.S. 20-288  
3 G.S. 20-295  
4 G.S. 20-296  
5 G.S. 20-300  
6 G.S. 20-301  
7 G.S. 20-302  
8 G.S. 20-305  
9 G.S. 20-305.1  
10 G.S. 20-305.2  
11 G.S. 20-305.3  
12 G.S. 20-305.4  
13 G.S. 20-308.1  
14 G.S. 20-321  
15 G.S. 20-322  
16 G.S. 20-323  
17 G.S. 20-324  
18 G.S. 20-325  
19 G.S. 20-382  
20 G.S. 20-382.2.

21 Sec. 8. G.S. 20-49 reads as rewritten:

22 "§ 20-49. Police authority of Division.

23 ~~The Commissioner and such officers~~ Officers and inspectors of  
24 the Division ~~as he shall designate~~ designated by the Secretary  
25 and all members of the Highway Patrol shall have the power:

- 26 (1) Of peace officers for the purpose of enforcing the  
27 provisions of this Article and of any other law  
28 regulating the operation of vehicles or the use of  
29 the highways.
- 30 (2) To make arrests upon view and without warrant for  
31 any violation committed in their presence of any of  
32 the provisions of this Article or other laws  
33 regulating the operation of vehicles or the use of  
34 the highways.
- 35 (3) At all time to direct all traffic in conformance  
36 with law, and in the event of a fire or other  
37 emergency or to expedite traffic or to insure  
38 safety, to direct traffic as conditions may  
39 require, notwithstanding the provisions of law.
- 40 (4) When on duty, upon reasonable belief that any  
41 vehicle is being operated in violation of any  
42 provision of this Article or of any other law  
43 regulating the operation of vehicles to require the  
44 driver thereof to stop and exhibit his driver's

1 license and the registration card issued for the  
2 vehicle, and submit to an inspection of such  
3 vehicle, the registration plates and registration  
4 card thereon or to an inspection and test of the  
5 equipment of such vehicle.

6 (5) To inspect any vehicle of a type required to be  
7 registered hereunder in any public garage or repair  
8 shop or in any place where such vehicles are held  
9 for sale or wrecking, for the purpose of locating  
10 stolen vehicles and investigating the title and  
11 registration thereof.

12 (6) To serve all warrants relating to the enforcement  
13 of the laws regulating the operation of vehicles or  
14 the use of the highways.

15 (7) To investigate traffic accidents and secure  
16 testimony of witnesses or of persons involved.

17 (8) To investigate reported thefts of motor vehicles,  
18 trailers and semitrailers and make arrest for  
19 thefts thereof.

20 (9) For the purpose of determining compliance with the  
21 provisions of this Chapter, to inspect all files  
22 and records of the persons hereinafter designated  
23 and required to be kept under the provisions of  
24 this Chapter or of the registrations of the  
25 Division:

26 a. Persons dealing in or selling and buying new,  
27 used or junked motor vehicles and motor  
28 vehicle parts; and

29 b. Persons operating garages or other places where  
30 motor vehicles are repaired, dismantled, or  
31 stored."

32 Sec. 9. G.S. 20-79.1(j) is repealed.

33 Sec. 10. G.S. 20-84.2 is amended by deleting the word  
34 "Commissioner's" each time it appears and substituting the word  
35 "Secretary's".

36 Sec. 11. G.S. 20-88.01 reads as rewritten:

37 "§ 20-88.01. Revocation of registration for failure to register  
38 for or comply with road tax or pay civil penalty for buying or  
39 selling non-tax-paid fuel.

40 (a) Road Tax. -- The Secretary of Revenue may notify the  
41 ~~Commissioner~~ Division of those motor vehicles that are registered  
42 or are required to be registered under Article 36B of Chapter 105  
43 and whose owners or lessees, as appropriate, are not in  
44 compliance with Article 36B, 36C, or 36D of Chapter 105. When

1 notified, the ~~Commissioner~~ Division shall withhold or revoke the  
2 registration plate for the vehicle.

3 (b) Non-tax-paid Fuel. -- The Secretary of Revenue may notify  
4 the ~~Commissioner~~ Division of those motor vehicles for which a  
5 civil penalty imposed under G.S. 105-449.118 has not been paid.  
6 When notified, the ~~Commissioner~~ Division shall withhold or revoke  
7 the registration plate of the vehicle."

8 Sec. 12. G.S. 20-279.21(b)(3)b. reads as rewritten:

9 "b. Where the insured, under the uninsured  
10 motorist coverage, claims that he has  
11 sustained bodily injury as the result of  
12 collision between motor vehicles and asserts  
13 that the identity of the operator or owner of  
14 a vehicle (other than a vehicle in which the  
15 insured is a passenger) cannot be ascertained,  
16 the insured may institute an action directly  
17 against the insurer: Provided, in that event,  
18 the insured, or someone in his behalf, shall  
19 report the accident within 24 hours or as soon  
20 thereafter as may be practicable, to a police  
21 officer, peace officer, other judicial  
22 officer, or to the ~~Commissioner of Motor~~  
23 ~~Vehicles~~ Division. The insured shall also  
24 within a reasonable time give notice to the  
25 insurer of his injury, the extent thereof, and  
26 shall set forth in the notice the time, date  
27 and place of the injury. Thereafter, on forms  
28 to be mailed by the insurer within 15 days  
29 following receipt of the notice of the  
30 accident to the insurer, the insured shall  
31 furnish to insurer any further reasonable  
32 information concerning the accident and the  
33 injury that the insurer requests. If the forms  
34 are not furnished within 15 days, the insured  
35 is deemed to have complied with the  
36 requirements for furnishing information to the  
37 insurer. Suit may not be instituted against  
38 the insurer in less than 60 days from the  
39 posting of the first notice of the injury or  
40 accident to the insurer at the address shown  
41 on the policy or after personal delivery of  
42 the notice to the insurer or its agent. The  
43 failure to post notice to the insurer 60 days  
44 before the initiation of the suit shall not be

1 grounds for dismissal of the action, but shall  
2 automatically extend the time for filing of an  
3 answer or other pleadings to 60 days after the  
4 time of service of the summons, complaint, or  
5 other process on the insurer."

6 Sec. 13. G.S. 20-282 reads as rewritten:

7 "§ 20-282. Cooperation in enforcement of Article.

8 The provisions of this Article shall be enforced by the  
9 ~~Commissioner of Motor Vehicles~~ Division in cooperation with the  
10 Commissioner of Insurance, the North Carolina Automobile Rate  
11 Administrative Office and with all law-enforcement officers and  
12 agents and other agencies of the State and the political  
13 subdivisions thereof."

14 Sec. 14. G.S. 20-309 reads as rewritten:

15 "§ 20-309. Financial responsibility prerequisite to registration;  
16 must be maintained throughout registration period.

17 (a) No self-propelled motor vehicle shall be registered in  
18 this State unless the owner at the time of registration has  
19 financial responsibility for the operation of such motor vehicle,  
20 as provided in this Article. The owner of each motor vehicle  
21 registered in this State shall maintain financial responsibility  
22 continuously throughout the period of registration.

23 (b) Financial responsibility shall be a liability insurance  
24 policy or a financial security bond or a financial security  
25 deposit or by qualification as a self-insurer, as these terms are  
26 defined and described in Article 9A, Chapter 20 of the General  
27 Statutes of North Carolina, as amended.

28 (c) When it is certified that financial responsibility is a  
29 liability insurance policy, the ~~Commissioner of Motor Vehicles~~  
30 Division may require that the owner to produce records to prove  
31 the fact of such insurance, and failure to produce such records  
32 shall be prima facie evidence that no financial responsibility  
33 exists with regard to the vehicle concerned. It shall be the duty  
34 of insurance companies, upon request of the Division, to verify  
35 the accuracy of any owner's certification.

36 (d) When liability insurance with regard to any motor vehicle  
37 is terminated by cancellation or failure to renew, or the owner's  
38 financial responsibility for the operation of any motor vehicle  
39 is otherwise terminated, the owner shall forthwith surrender the  
40 registration certificate and plates of the vehicle to the  
41 ~~Division of Motor Vehicles~~ unless financial responsibility is  
42 maintained in some other manner in compliance with this Article.

43 (e) Upon termination by cancellation or otherwise of an  
44 insurance policy provided in subsection (b) of this section, the

1 insurer shall notify the Division of such termination; provided,  
2 no cancellation notice is required if the insurer issues a new  
3 insurance policy complying with this Article at the same time the  
4 insurer cancels or otherwise terminates the old policy, no lapse  
5 in coverage results, and the insurer sends the certificate of  
6 insurance form for the new policy to the Division. The Division,  
7 upon receiving notice of cancellation or termination of an  
8 owner's financial responsibility as required by this Article,  
9 shall notify such owner of such cancellation or termination, and  
10 such owner shall, to retain the registration plate for the  
11 vehicle registered or required to be registered, within 10 days  
12 from date of notice given by the Division either:

13           (1) Certify to the Division that he had financial  
14           responsibility effective on or prior to the date of  
15           such termination; or

16           (2) In the case of a lapse in financial responsibility,  
17           pay a fifty dollar (\$50.00) civil penalty; and  
18           certify to the Division that he now has financial  
19           responsibility effective on the date of  
20           certification, that he did not operate the vehicle  
21           in question during the period of no financial  
22           responsibility with the knowledge that there was no  
23           financial responsibility, and that the vehicle in  
24           question was not involved in a motor vehicle  
25           accident during the period of no financial  
26           responsibility.

27 Failure of the owner to certify that he has financial  
28 responsibility as herein required shall be prima facie evidence  
29 that no financial responsibility exists with regard to the  
30 vehicle concerned and unless the owner's registration plate has  
31 on or prior to the date of termination of insurance been  
32 surrendered to a representative of the Division ~~by surrender to~~  
33 ~~an agent or representative of the Division designated by the~~  
34 ~~Commissioner, or depositing the same or deposited~~ in the United  
35 States mail, addressed to the Division of Motor Vehicles,  
36 Raleigh, North Carolina, the Division shall revoke the vehicle's  
37 registration for 30 days.

38 In no case shall any vehicle, the registration of which has  
39 been revoked for failure to have financial responsibility, be  
40 reregistered in the name of the registered owner, spouse, or any  
41 child of the spouse, or any child of such owner within less than  
42 30 days after the date of receipt of the registration plate by  
43 the Division of Motor Vehicles, except that a spouse living  
44 separate and apart from the registered owner may register such

1 vehicle immediately in such spouse's name. Additionally, as a  
2 condition precedent to the reregistration of the vehicle by the  
3 registered owner, spouse, or any child of the spouse, or any  
4 child of such owner, except a spouse living separate and apart  
5 from the registered owner, the payment of a restoration fee of  
6 fifty dollars (\$50.00) and the appropriate fee for a new  
7 registration plate is required. Any person, firm or corporation  
8 failing to give notice of termination shall be subject to a civil  
9 penalty of two hundred dollars (\$200.00) to be assessed by the  
10 Commissioner of Insurance upon a finding by the Commissioner of  
11 Insurance that good cause is not shown for such failure to give  
12 notice of termination to the Division.

13 (f) ~~The Commissioner shall administer and enforce the~~  
14 ~~provisions of this Article and may make rules and regulations~~  
15 ~~necessary for its administration and~~ Secretary shall provide for  
16 hearings upon request of persons aggrieved by orders or acts of  
17 the ~~Commissioner~~ Secretary under the provisions of this Article."

18 Sec. 15. G.S. 20-315 is repealed.

19 Sec. 16. G.S. 20-320(2) is repealed.

20 Sec. 17. G.S. 1-105 reads as rewritten:

21 "§ 1-105. Service upon nonresident drivers of motor vehicles and  
22 upon the personal representatives of deceased nonresident drivers  
23 of motor vehicles.

24 The acceptance by a nonresident of the rights and privileges  
25 conferred by the laws now or hereafter in force in this State  
26 permitting the operation of motor vehicles, as evidenced by the  
27 operation of a motor vehicle by such nonresident on the public  
28 highways of this State, or at any other place in this State, or  
29 the operation by such nonresident of a motor vehicle on the  
30 public highways of this State or at any other place in this  
31 State, other than as so permitted or regulated, shall be deemed  
32 equivalent to the appointment by such nonresident of the  
33 ~~Commissioner of Motor Vehicles,~~ Secretary of the Department of  
34 Transportation, or his successor in office, to be his true and  
35 lawful attorney and the attorney of his executor or  
36 administrator, upon whom may be served all summonses or other  
37 lawful process in any action or proceeding against him or his  
38 executor or administrator, growing out of any accident or  
39 collision in which said nonresident may be involved by reason of  
40 the operation by him, for him, or under his control or direction,  
41 express or implied, of a motor vehicle on such public highways of  
42 this State, or at any other place in this State, and said  
43 acceptance or operation shall be a signification of his agreement  
44 that any such process against him or his executor or

1 subsection (b) hereof shall be sufficient for these purposes if  
2 such notices contain the information required by subsection (f)  
3 hereof. The lienor shall not purchase, directly or indirectly,  
4 the property at private sale and such a sale to the lienor shall  
5 be voidable."

6 Sec. 20. G.S. 44A-4(e) reads as rewritten:

7 "(e) Public Sale. --

8 (1) Not less than 20 days prior to sale by public sale  
9 the lienor:

10 a. Shall notify the ~~Commissioner~~ Division of  
11 Motor Vehicles as provided in G.S. 20-114(c)  
12 if the property upon which the lien is claimed  
13 is a motor vehicle; and

14 a1. Shall cause notice to be mailed to the person  
15 having legal title to the property if  
16 reasonably ascertainable, to the person with  
17 whom the lienor dealt if different, and to  
18 each secured party or other person claiming an  
19 interest in the property who is actually known  
20 to the lienor or can be reasonably  
21 ascertained, provided that notices provided  
22 pursuant to subsection (b) hereof shall be  
23 sufficient for these purposes if such notices  
24 contain the information required by subsection  
25 (f) hereof; and

26 b. Shall advertise the sale by posting a copy of  
27 the notice of sale at the courthouse door in  
28 the county where the sale is to be held;

29 and shall publish notice of sale once a week for  
30 two consecutive weeks in a newspaper of general  
31 circulation in the same county, the date of the  
32 last publication being not less than five days  
33 prior to the sale. The notice of sale need not be  
34 published if the vehicle has a market value of less  
35 than three thousand five hundred dollars (\$3,500),  
36 as determined by the schedule of values adopted by  
37 the ~~Commissioner~~ Division of Motor Vehicles under  
38 G.S. 105-187.3.

39 (2) A public sale must be held on a day other than  
40 Sunday and between the hours of 10:00 A.M. and 4:00  
41 P.M.:

42 a. In any county where any part of the contract  
43 giving rise to the lien was performed, or

1           b. In the county where the obligation secured by  
2           the lien was contracted for.

3           (3) A lienor may purchase at public sale."

4           Sec. 21. G.S. 66-58(b)(15) reads as rewritten:

5           "(15) The State Department of Correction is  
6           authorized to purchase and install automobile  
7           license tag plant equipment for the purpose of  
8           manufacturing license tags for the State and  
9           local governments and for such other purposes  
10          as the Department may direct.

11          The ~~Commissioner Division~~ of Motor Vehicles, ~~or~~  
12          ~~such other authority as may exercise~~ Vehicles and  
13          ~~any other entity that exercises~~ the authority to  
14          purchase automobile license tags is hereby directed  
15          to purchase from, and to contract with, the State  
16          Department of Correction for the State automobile  
17          license tag requirements from year to year.

18          The price to be paid to the State Department of  
19          Correction for such tags shall be fixed and agreed  
20          upon by the Governor, the State Department of  
21          Correction, and the ~~Motor Vehicle Commissioner, or~~  
22          ~~such authority as may be authorized to purchase~~  
23          ~~such supplies, agency purchasing the tags."~~

24          Sec. 22. G.S. 105-187.1 reads as rewritten:

25        "§ 105-187.1. Definitions.

26        The following definitions and the definitions in G.S. 105-164.3  
27        apply to this Article:

28           (1) ~~"Commissioner" means the Commissioner of Motor~~  
29           ~~Vehicles.~~

30           (2) ~~"Division" means the Division. -- The Division of~~  
31           ~~Motor Vehicles, Department of Transportation.~~

32           (3) ~~"Long-term Long-term lease or rental" means a~~  
33           ~~rental. -- A lease or rental made under a written~~  
34           ~~agreement to lease or rent property to the same~~  
35           ~~person for a period of at least 365 continuous~~  
36           ~~days.~~

37           (4) ~~"Short-term Short-term lease or rental" means a~~  
38           ~~rental. -- A lease or rental that is not a long-~~  
39           ~~term lease or rental."~~

40          Sec. 23. G.S. 105-187.3 reads as rewritten:

41        "§ 105-187.3. Rate of tax.

42           (a) Amount. -- The rate of the use tax imposed by this Article  
43           is three percent (3%) of the retail value of a motor vehicle for  
44           which a certificate of title is issued. The tax is payable as

1 provided in G.S. 105-187.4. The tax may not be more than one  
2 thousand dollars (\$1,000) for each certificate of title issued  
3 for a Class A or Class B motor vehicle that is a commercial motor  
4 vehicle, as defined in G.S. 20-4.01. The tax may not be more than  
5 one thousand five hundred dollars (\$1,500) for each certificate  
6 of title issued for any other motor vehicle.

7 (b) Retail Value. -- The retail value of a motor vehicle for  
8 which a certificate of title is issued because of a sale of the  
9 motor vehicle by a retailer is the sales price of the motor  
10 vehicle, including all accessories attached to the vehicle when  
11 it is delivered to the purchaser, less the amount of any  
12 allowance given by the retailer for a motor vehicle taken in  
13 trade as a full or partial payment for the purchased motor  
14 vehicle. The retail value of a motor vehicle for which a  
15 certificate of title is issued because of a sale of the motor  
16 vehicle by a seller who is not a retailer is the market value of  
17 the vehicle, less the amount of any allowance given by the seller  
18 for a motor vehicle taken in trade as a full or partial payment  
19 for the purchased motor vehicle. A transaction in which two  
20 parties exchange motor vehicles is considered a sale regardless  
21 of whether either party gives additional consideration as part of  
22 the transaction. The retail value of a motor vehicle for which a  
23 certificate of title is issued because of a reason other than the  
24 sale of the motor vehicle is the market value of the vehicle. The  
25 market value of a vehicle is presumed to be the value of the  
26 vehicle set in a schedule of values adopted by the ~~Commissioner~~  
27 Secretary of the Department of Transportation.

28 (c) Schedules. -- In adopting a schedule of values for motor  
29 vehicles, the ~~Commissioner~~ Secretary of the Department of  
30 Transportation shall adopt a schedule whose values do not exceed  
31 the wholesale values of motor vehicles as published in a  
32 recognized automotive reference manual."

33 Sec. 24. G.S. 105-187.4 reads as rewritten:

34 "§ 105-187.4. Payment of tax.

35 (a) Method. -- The tax imposed by this Article must be paid to  
36 the ~~Commissioner~~ Division when applying for a certificate of  
37 title for a motor vehicle. The ~~Commissioner~~ Division may not  
38 issue a certificate of title for a vehicle until the tax imposed  
39 by this Article has been paid. The tax may be paid in cash or by  
40 check.

41 (b) Sale by Retailer. -- When a certificate of title for a  
42 motor vehicle is issued because of a sale of the motor vehicle by  
43 a retailer, the applicant for the certificate of title must  
44 attach a copy of the bill of sale for the motor vehicle to the

1 application. A retailer who sells a motor vehicle may collect  
2 from the purchaser of the vehicle the tax payable upon the  
3 issuance of a certificate of title for the vehicle, apply for a  
4 certificate of title on behalf of the purchaser, and remit the  
5 tax due on behalf of the purchaser. If a check submitted by a  
6 retailer in payment of taxes collected under this section is not  
7 honored by the financial institution upon which it is drawn  
8 because the retailer's account did not have sufficient funds to  
9 pay the check or the retailer did not have an account at the  
10 institution, the Division may suspend or revoke the license  
11 issued to the retailer under Article 12 of Chapter 20 of the  
12 General Statutes."

13 Sec. 25. G.S. 105-187.8 reads as rewritten:

14 "§ 105-187.8. Refund for return of purchased motor vehicle.

15 When a purchaser of a motor vehicle returns the motor vehicle  
16 to the seller of the motor vehicle within 90 days after the  
17 purchase and receives a vehicle replacement for the returned  
18 vehicle or a refund of the price paid the seller, whether from  
19 the seller or the manufacturer of the vehicle, the purchaser may  
20 obtain a refund of the privilege tax paid on the certificate of  
21 title issued for the returned motor vehicle.

22 To obtain a refund, the purchaser must apply to the Division  
23 for a refund within 30 days after receiving the replacement  
24 vehicle or refund of the purchase price. The application must be  
25 made on a form prescribed by the ~~Commission~~ Division and must be  
26 supported by documentation from the seller of the returned  
27 vehicle."

28 Sec. 26. G.S. 105-187.10 reads as rewritten:

29 "§ 105-187.10. Penalties and remedies.

30 (a) Penalties. -- The penalty for bad checks in G.S. 105-  
31 236(1) applies to a check offered in payment of the tax imposed  
32 by this Article. In addition, if a check offered to the Division  
33 in payment of the tax imposed by this Article is returned unpaid  
34 and the tax for which the check was offered, plus the penalty  
35 imposed under G.S. 105-236(1), is not paid within 30 days after  
36 the ~~Commissioner~~ Division demands its payment, the ~~Commissioner~~  
37 Division may revoke the registration plate of the vehicle for  
38 which a certificate of title was issued when the check was  
39 offered.

40 (b) Unpaid Taxes. -- The remedies for collection of taxes in  
41 G.S. 20-99 apply to the taxes levied by this Article and  
42 collected by the ~~Commissioner~~ Division.

43 (c) Appeals. -- A taxpayer who disagrees with the presumed  
44 value of a motor vehicle must pay the tax based on the presumed

1 value, but may appeal the value to the ~~Commissioner~~, Secretary of  
2 the Department of Transportation. A taxpayer who appeals the  
3 value must provide two estimates of the value of the ~~vehicle to~~  
4 ~~the Commissioner~~, vehicle. If the ~~Commissioner~~ Secretary of the  
5 Department of Transportation finds that the value of the vehicle  
6 is less than the presumed value of the vehicle, the ~~Commissioner~~  
7 Division shall refund any overpayment of tax made by the taxpayer  
8 with interest at the rate specified in G.S. 105-241.1 from the  
9 date of the overpayment."

10 Sec. 27. G.S. 105-449.54 reads as rewritten:

11 "§ 105-449.54. ~~Commissioner of Motor Vehicles~~ Secretary of  
12 Department of Transportation made process agent of nonresident  
13 motor carriers.

14 The acceptance by a nonresident motor carrier of the rights  
15 and privileges conferred by the laws now or hereafter in force in  
16 this State permitting the operation of motor vehicles, as  
17 evidenced by the operation of a motor vehicle by such  
18 nonresident, either personally or through an agent or employee,  
19 on the public highways of this State, or the operation by such  
20 nonresident, either personally or through an agent or employee,  
21 of a motor vehicle on the public highways of this State other  
22 than as so permitted or regulated, shall be deemed equivalent to  
23 the appointment by such nonresident motor carrier of the  
24 ~~Commissioner of Motor Vehicles~~, Secretary of the Department of  
25 Transportation, or his successor in office, to be his true and  
26 lawful attorney and the attorney of his executor or  
27 administrator, upon whom may be served all summonses or other  
28 lawful process or notice in any action, assessment proceeding or  
29 other proceeding against him or his executor or administrator,  
30 arising out of or by reason of any provisions of this Article  
31 relating to such vehicle or relating to the liability for tax  
32 with respect to operation of such vehicle on the highways of this  
33 State. Said acceptance or operation shall be a signification by  
34 such nonresident motor carrier of his agreement that any such  
35 process against or notice to him or his executor or administrator  
36 shall be of the same legal force and validity as if served on him  
37 personally, or on his executor or administrator. All of the  
38 provisions of G.S. 1-105 following the first paragraph thereof  
39 shall be applicable with respect to the service of process or  
40 notice pursuant to this section."

41 Sec. 28. G.S. 110-91(a)(13) reads as rewritten:

42 "(13) Transportation. -- All child day care  
43 facilities shall abide by North Carolina law  
44 regulating the use of seat belts and child

1 passenger restraint devices. All vehicles  
2 operated by any facility staff person or  
3 volunteer to transport children shall be  
4 properly equipped with appropriate seat belts  
5 or child restraint devices as approved by the  
6 ~~Commissioner of Motor Vehicles~~. Secretary of  
7 the Department of Transportation. Each adult  
8 and child shall be restrained by an  
9 appropriate seat safety belt or restraint  
10 device when the vehicle is in motion. These  
11 restraint regulations do not apply to vehicles  
12 not required by federal law to be equipped  
13 with seat restraints. All vehicles used to  
14 transport children shall meet and maintain the  
15 safety inspection standards of the Division of  
16 Motor Vehicles of the Department of  
17 Transportation and the facility shall comply  
18 with all other applicable State and federal  
19 laws and regulations concerning the operation  
20 of a motor vehicle. Children may never be left  
21 unattended in a vehicle.

22 The ratio of adults to children in child day  
23 care vehicles may not be less than the staff/child  
24 ratios prescribed by G.S. 110-91(7). The  
25 Commission shall adopt standards for transporting  
26 children under the age of two, including standards  
27 addressing this particular age's staff/child ratio  
28 during transportation."

29 Sec. 29. G.S. 143-166.13(a)(13) reads as rewritten:

30 "(13) Members of License and Theft Enforcement  
31 Section, Division of Motor Vehicles,  
32 Department of Transportation, designated by  
33 the ~~Commissioner of Motor Vehicles~~ Secretary  
34 of the Department of Transportation as either  
35 'inspectors' or uniformed weigh station  
36 personnel;".

37 Sec. 30. G.S. 147-33.2(8) reads as rewritten:

38 "(8) At any time when the General Assembly is not in  
39 session, suspend, or modify, in whole or in part,  
40 generally or in its application to certain classes  
41 of persons, firms, corporations or circumstances,  
42 any law, rule or regulation with reference to the  
43 subjects hereinafter enumerated, when he shall find  
44 and proclaim after such study, investigation or

1           hearings as he may direct, make or conduct, that  
2           the operation, enforcement or application of such  
3           law, or any part thereof, materially hinders,  
4           impedes, delays or interferes with the proper  
5           conduct of the war; said subjects being as follows:

6           a.    The use of the roads, streets, and highways of  
7                the State, with particular reference to speed  
8                limits, weights and sizes of motor vehicles,  
9                regulations of automobile lights and signals,  
10              transportation of munitions or explosives and  
11              parking or assembling of automobiles on  
12              highways or any other public place within the  
13              State; provided that any changes in the laws  
14              referred to in this subdivision shall be first  
15              approved by the Board of ~~Transportation and~~  
16              ~~the Commissioner of Motor Vehicles of the~~  
17              State; Transportation;

18           b.    Public health, insofar as suspension or  
19                modification of the laws in reference thereto  
20                may be stipulated by the United States Public  
21                Health Service or other authoritative agency  
22                of the United States government as being  
23                essential in the interest of national safety  
24                and in the successful prosecution of the war  
25                effort; provided that such suspension or  
26                modification of public health laws shall first  
27                be submitted to and approved by the Commission  
28                for Health Services;

29           c.    Labor and industry; provided, however, that  
30                any suspension or modification of laws  
31                regulating labor and industry shall be only  
32                such as are certified by the Commissioner of  
33                Labor of the State as being necessary in the  
34                interest of national safety and in the  
35                furtherance of the war program; and provided  
36                further that any such changes as may result in  
37                an increase in the hours of employment over  
38                and above the limits of the existing statutory  
39                provisions shall carry provision for adequate  
40                additional compensation; and provided,  
41                further, that no changes in such laws or  
42                regulations shall be made as affecting  
43                existing contracts between labor and

- 1 management in this State except with the  
2 approval of the contracting parties;
- 3 d. Whenever it should be certified by the  
4 Adjutant General of the State that emergency  
5 conditions require such procedure, the  
6 Governor, with the approval of the Council of  
7 State, shall have the power to call up and  
8 mobilize State militia in addition to the  
9 existing units of the State guard; to provide  
10 transportation and facilities for mobilization  
11 and full utilization of the State guard, or  
12 other units of militia, in such emergency; and  
13 to allocate from the Contingency and Emergency  
14 Fund such amounts as may be necessary for such  
15 purposes during the period of such emergency;
- 16 e. Manufacture, sale, transportation, possession  
17 and use of explosives or fireworks, or  
18 articles in simulation thereof, and the sale,  
19 use and handling of firearms;".
- 20 Sec. 31. This act is effective when it becomes law.  
21

#### Explanation of Proposal

This proposal implements a recommendation of the performance audit of the Division of Motor Vehicles that was conducted by MGT of America, Inc. The proposal deletes the position of Commissioner of Motor Vehicles and makes the Secretary of Transportation responsible for the Division of Motor Vehicles. The proposal gives the Secretary the discretion to appoint a Deputy Secretary of the Department of Transportation to be in charge of the Division. The bill is long because it changes many references to the Commissioner.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 6  
97-LJX-007(1.3)

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Modify Emissions Inspection Laws.

(Public)

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Sponsors: Transportation Oversight.

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE PENALTY SCHEDULE FOR VIOLATIONS OF THE  
3 VEHICLE EMISSION INSPECTION PROGRAM, TO CLARIFY THE PROCEDURE  
4 FOR IMPOSING THE PENALTIES, AND TO MAKE OTHER CHANGES TO THE  
5 VEHICLE EMISSION INSPECTION LAWS.  
6 The General Assembly of North Carolina enacts:  
7           Section 1. G.S. 20-183.4(b) reads as rewritten:  
8       "(b) Station Qualifications. -- An applicant for a license as  
9 a safety inspection station must meet all of the following  
10 requirements:  
11           (1) Have a place of business that has adequate  
12           facilities, space, and equipment to conduct a  
13           safety inspection.  
14           (2) Regularly employ at least one mechanic who has a  
15           safety inspection mechanic license.  
16           (3) Designate the individual who will be responsible  
17           for the day-to-day operation of the station. The  
18           individual designated must be of good character and  
19           have a reputation for honesty."

This section adds a requirement for obtaining a safety inspection station license and an emissions inspection station license. The new requirement is the designation of the person who will be in charge of the station. That person must be of

good character and have a reputation for honesty. Under current law, an inspection mechanic must be of good character and have a reputation for honesty. The addition is made to the statute that applies to safety inspection stations. The new requirement will apply to emissions inspection stations as well because an emissions inspection station must meet all of the requirements of a safety inspection station plus additional requirements.

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Section 2. G.S. 20-183.4C reads as rewritten:

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"§ 20-183.4C. When a vehicle must be ~~inspected~~ inspected; one-way trip permit.

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(a) Inspection. -- A vehicle that is subject to a safety inspection, an emissions inspection, or both must be inspected as follows:

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(1) A new vehicle must be inspected before it is ~~offered for sale~~ sold at retail in this State.

(2) A used vehicle must be inspected before it is offered for sale at retail in this State by a dealer at a location other than a public auction.

(3) A used vehicle that is offered for sale at retail in this State by a dealer at a public auction must be inspected before it is offered for sale unless it has an inspection sticker that was put on the vehicle under this Part and does not expire until at least nine months after the date the vehicle is offered for sale at auction.

(4) A used vehicle acquired by a resident of this State from a person outside the State must be inspected within 10 days after the vehicle is registered with the Division.

(5) A vehicle owned by a new resident of this State who transfers the registration of the vehicle from the resident's former home state to this State must be inspected within 10 days after the vehicle is registered with the Division.

(6) A vehicle that has been inspected in accordance with this Part must be inspected by the last day of the month in which the inspection sticker on the vehicle expires, unless another subdivision of this section requires it to be inspected sooner.

(b) Permit. -- The Division may issue a one-way trip permit to a person that authorizes the person to drive to an inspection station a vehicle whose inspection sticker has expired. The permit must describe the vehicle whose inspection sticker has

1 expired. The permit authorizes the person to drive the described  
2 vehicle only from the place the vehicle is parked to an  
3 inspection station."

This section makes two changes in the current law. First, it deletes the requirement that a new vehicle be inspected before it is offered for sale and substitutes a requirement that the new vehicle be inspected before it is sold. This change applies to both safety and emissions inspections. The change eliminates the problem dealers have of putting a sticker on a car that does not sell for several months and then, at the request of the buyer, having to do another inspection and put a more current sticker on the car. Before 1995, dealers could put a substitute safety inspection form on a separate piece of paper and then put a sticker on when the vehicle was sold. This change eliminates the need for an inspection until the vehicle is sold and does not revive the former substitute form.

Second, the section restores the one-way trip permit for use in taking a vehicle with an expired inspection sticker to a station for inspection. Current law provides a defense to a charge of a violation in this circumstance. The change is made as a result of a determination that it is better public policy to provide a way for a person to comply with the law in this circumstance by obtaining the permit rather than to tell the person to take a chance on not being caught and allowing them a defense that must be proven if they are caught. The permit was deleted to reduce the administrative burden on the Division.

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5 Section 3. G.S. 20-183.4D(c) reads as rewritten:

6 "(c) Content of Sticker. -- An inspection sticker issued for a  
7 vehicle that is subject to a safety inspection only must be a  
8 different color from an inspection sticker issued for a vehicle  
9 that is subject to both a safety and an emissions inspection. An  
10 inspection sticker must indicate when it expires, must be printed  
11 with a unique serial number and an official program seal, and  
12 must be counterfeit resistant. The side of an inspection sticker  
13 that is readable from the interior of a vehicle must contain the  
14 following information:

- 15 (1) The date the inspection was performed.  
16 (2) The odometer reading when the inspection was  
17 performed.  
18 (3) The signature, initials, or other identification of  
19 the mechanic who performed the inspection and put  
20 the sticker on the windshield.  
21 (4) The vehicle identification number of the vehicle.

This section requires an inspection sticker to contain the VIN of the vehicle to which the sticker is attached. This change is made at the request of the Division.

1 Section 4. G.S. 20-183.6 reads as rewritten:

2 "§ 20-183.6. Businesses that replace windshields must register  
3 with Division to get inspection stickers.

4 A person who is engaged in the business of replacing  
5 windshields on vehicles that are subject to inspection under this  
6 Part may register with the Division to obtain replacement  
7 inspection stickers for use on replaced windshields. A  
8 replacement inspection sticker put on a windshield that has been  
9 replaced must contain the same information and expire at the same  
10 time as the inspection sticker it replaces. A person who puts a  
11 replacement inspection sticker on a replaced windshield must  
12 remove the inspection sticker from the windshield that was  
13 replaced replaced, attach the removed inspection sticker to the  
14 person's copy of the receipt given for replacing the windshield,  
15 and keep the copy of the receipt containing the removed  
16 inspection sticker until 30 days 18 months after it expires. the  
17 sticker was removed.

18 A person registered under this section must keep records of  
19 replacement stickers put on replaced windshields and must be able  
20 to account for all inspection stickers received from the  
21 Division. The Division may suspend or revoke the registration of  
22 a person under this section if the person fails to keep records  
23 required by the Division or is unable to account for inspection  
24 stickers received from the Division. An auditor of the Division  
25 may review the records of a person registered under this section  
26 during normal business hours.

27 A person who is registered under this section and has a safety  
28 inspection station license or an emissions inspection station  
29 license must keep the records of the inspection stickers used on  
30 replaced windshields separate from the records of the inspection  
31 stickers used on vehicles inspected. A person who is registered  
32 under this section and has an inspection station license may not  
33 inspect a vehicle whose windshield is being replaced unless the  
34 inspection sticker on the windshield has expired or expires at  
35 the end of the month in which the windshield is being replaced  
36 and the person has the vehicle owner's permission to inspect the  
37 vehicle."

38 Section 5. G.S. 20-183.8 reads as rewritten:

39 "§ 20-183.8. Infractions and criminal offenses for violations of  
40 inspection requirements.

1 "(a) Infractions. -- A person who does any of the following  
2 commits an infraction and, if found responsible, is liable for a  
3 penalty of up to fifty dollars (\$50.00):

4 (1) Operates a motor vehicle that is subject to  
5 inspection under this Part on a highway or public  
6 vehicular area in the State when the vehicle has  
7 not been inspected in accordance with this Part, as  
8 evidenced by the vehicle's lack of a current  
9 inspection sticker or otherwise.

10 (2) Allows an inspection sticker to be put on a vehicle  
11 owned or operated by that person, knowing that the  
12 vehicle was not inspected before the sticker was  
13 attached or was not inspected properly.

14 (3) ~~Attaches~~ Puts an inspection sticker ~~to~~ on a  
15 vehicle, knowing or having reasonable grounds to  
16 know an inspection of the vehicle was not performed  
17 or was performed improperly. A person who is cited  
18 for a civil penalty under G.S. 20-183.8B for an  
19 emissions violation involving the inspection of a  
20 vehicle may not be charged with an infraction under  
21 this subdivision based on that same vehicle."

22 (b) Defenses to Infractions. -- Any of the following is a  
23 defense to a violation under subsection (a) of this section:

24 (1) The vehicle was continuously out of State for at  
25 least the 30 days preceding the date the inspection  
26 sticker expired and a current inspection sticker  
27 was obtained within 10 days after the vehicle came  
28 back to the State.

29 (2) The vehicle displays a dealer license plate or a  
30 transporter plate, the dealer repossessed the  
31 vehicle or otherwise acquired the vehicle within  
32 the last 10 days, and the vehicle is being driven  
33 from its place of acquisition to the dealer's place  
34 of business or to an inspection station.

35 ~~(3) The vehicle was in a state of disrepair on the date~~  
36 ~~the inspection sticker expired, the owner has since~~  
37 ~~repaired the vehicle, the vehicle is being driven~~  
38 ~~from the owner's residence or other place where the~~  
39 ~~owner repaired the vehicle to an inspection~~  
40 ~~station, and the owner has not otherwise driven the~~  
41 ~~vehicle since the inspection sticker expired.~~

42 (4) The charged infraction is described in subdivision  
43 (a)(1) of this section, the vehicle is subject to a  
44 safety-only inspection, and the vehicle owner

1 establishes in court that the vehicle was inspected  
2 after the citation was issued and within 30 days of  
3 the expiration date of the inspection sticker that  
4 was on the vehicle when the citation was issued.

5 (c) Felony. -- A person who ~~forges an inspection sticker~~  
6 ~~commits a Class I felony.~~ does any of the following commits a  
7 Class I felony:

8 (1) Forges an inspection sticker.

9 (2) Buys, sells, or possesses a forged inspection  
10 sticker.

11 (3) Buys, sells, or possesses an inspection sticker  
12 other than as the result of a vehicle inspection in  
13 which the vehicle passed the inspection or for  
14 which the vehicle received a waiver."

This section makes three changes. First, it prevents an emissions inspection station or an emissions mechanic from being subject to both civil penalties and an infraction for the same errors in performing emissions inspections of vehicles. It does this by precluding the application of the infraction. The civil penalties are harsher than the infraction. The infraction would continue to apply to safety inspections, as opposed to emissions inspections. Vehicles in 9 counties in the State are subject to emissions inspections, but vehicles in every county are subject to safety inspections.

Second, it deletes a defense that is no longer needed because of the addition of the one-way trip permit. Third, it adds additional felony offenses for buying, selling, or possessing forged or real inspection stickers.

15 Section 6. G.S. 20-183.8B reads as rewritten:

16 "§ 20-183.8B. Civil penalties against license holders and  
17 suspension or revocation of license for emissions violations.

18 (a) Kinds of Violations. -- The civil penalty schedule  
19 established in this section applies to emissions self-inspectors,  
20 emissions inspection stations, and emissions inspection  
21 mechanics. The schedule categorizes emissions violations into  
22 serious (Type I), minor (Type II), and technical (Type III)  
23 violations.

24 A serious violation is a violation of this Part or a rule  
25 adopted to implement this Part that directly affects the emission  
26 reduction benefits of the emissions inspection program. A minor  
27 violation is a violation of this Part or a rule adopted to  
28 implement this Part that reflects negligence or carelessness in  
29 conducting an emissions inspection or complying with the  
30 emissions inspection requirements but does not directly affect

1 the emission reduction benefits of the emissions inspection  
2 program. A technical violation is a violation that is not a  
3 serious violation, a minor violation, or another type of offense  
4 under this Part.

5 (b) Penalty Schedule. -- The Division must take the following  
6 action for a violation:

7 (1) Type I. -- For a first or second Type I violation  
8 by an emissions self-inspector or an emissions  
9 inspection station, assess a civil penalty of two  
10 hundred fifty dollars (\$250.00) and suspend the  
11 license of the business for six months. For a third  
12 or subsequent Type I violation within ~~seven~~ three  
13 years by an emissions self-inspector or an  
14 emissions inspection station, assess a civil  
15 penalty of one thousand dollars (\$1,000) and revoke  
16 the license of the business for two years.

17 For a first or second Type I violation by an  
18 emissions inspection mechanic, assess a civil  
19 penalty of one hundred dollars (\$100.00) and  
20 suspend the mechanic's license for six months. For  
21 a third or subsequent Type I violation within seven  
22 years by an emissions inspection mechanic, assess a  
23 civil penalty of two hundred fifty dollars  
24 (\$250.00) and revoke the mechanic's license for two  
25 years.

26 (2) Type II. -- For a first or second Type II violation  
27 by an emissions self-inspector or an emissions  
28 inspection station, assess a civil penalty of one  
29 hundred dollars (\$100.00). For a third or  
30 subsequent Type II violation within ~~seven~~ three  
31 years by an emissions self-inspector or an  
32 emissions inspection station, assess a civil  
33 penalty of two hundred fifty dollars (\$250.00) and  
34 suspend the license of the business for 90 days.

35 For a first or second Type II violation by an  
36 emissions inspection mechanic, assess a civil  
37 penalty of fifty dollars (\$50.00). For a third or  
38 subsequent Type II violation within seven years by  
39 an emissions inspection mechanic, assess a civil  
40 penalty of one hundred dollars (\$100.00) and  
41 suspend the mechanic's license for 90 days.

42 (3) Type III. -- For a first or second Type III  
43 violation by an emissions self-inspector, an  
44 emissions inspection station, or an emissions

1 inspection mechanic, send a warning letter. For a  
2 third or subsequent Type III violation within ~~seven~~  
3 three years by the same emissions license holder,  
4 assess a civil penalty of twenty-five dollars  
5 (\$25.00).

6 (c) Station or Self-Inspector Responsibility. -- It is the  
7 responsibility of an emissions inspection station and an  
8 emissions self-inspector to supervise the emissions mechanics it  
9 employs. A ~~Type I~~ violation by an emissions inspector mechanic is  
10 considered a ~~Type I~~ violation by the station or self-inspector  
11 for whom the mechanic is employed. ~~A Type II or III violation by~~  
12 ~~an emissions mechanic is not automatically a Type II or III~~  
13 ~~violation by the station or self-inspector for whom the mechanic~~  
14 ~~is employed. The Division may determine which Type II or Type~~  
15 ~~III violations by an emissions mechanic are also violations by~~  
16 ~~the station or self-inspector.~~

17 (d) Missing Stickers. -- The Division must assess a civil  
18 penalty against an emissions inspection station or an emissions  
19 self-inspector that cannot account for an emissions inspection  
20 sticker issued to it. A station or a self-inspector cannot  
21 account for a sticker when the sticker is missing and the station  
22 or self-inspector cannot establish reasonable grounds for  
23 believing the sticker was stolen or destroyed by fire or another  
24 accident.

25 The amount of the penalty is twenty-five dollars (\$25.00) for  
26 each missing sticker. If a penalty is imposed under subsection  
27 (b) of this section as the result of missing stickers, the  
28 monetary penalty that applies is the higher of the penalties  
29 required under this subsection and subsection (b); the Division  
30 may not assess a monetary penalty as a result of missing stickers  
31 under both this subsection and subsection (b). Imposition of a  
32 monetary penalty under this subsection does not affect suspension  
33 or revocation of a license required under subsection (b)."

This section revises the length of time during which prior violations can be taken into account in determining the applicable penalty for an emissions violation. The period is reduced from 7 years to 3 years for emissions inspection stations and self-inspectors. The reason for the reduction is the frequency of inspections done by the Division of Motor Vehicles. Federal law requires the Division to conduct overt performance audits of stations twice per year for each test lane of the station and additional covert audits. Given this frequency, three years is a sufficient period to discern the stations whose

performance is below the required standard and therefore subject to a 2-year license revocation.

The section also reduces the period for mechanics for technical (Type III) violations. It reduces the period from 7 years to 3 years. It does this to avoid complicating the penalty schedule for Type III violations by creating a distinction between stations and mechanics. These violations involve the failure to comply with DMV recordkeeping or administrative requirements and should be as simple as possible.

The section also eliminates the direction to the Division to determine which Type II or III violations of a mechanic are to be attributable to the station. The Division has not exercised this authority. The failure of the Division to do this by rule makes the Division unable to effectively enforce Type II or III penalties against the stations.

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Section 7. G.S. 20-183.8C reads as rewritten:

"§ 20-183.8C. Acts that are Type I, II, or III emissions violations.

(a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Put an emissions inspection sticker on a vehicle without performing an emissions inspection of the vehicle ~~or after performing an emissions inspection in which the vehicle did not pass the inspection-vehicle.~~

(1a) Put an emissions inspection sticker on a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.

(2) Use a test-defeating strategy when conducting an emissions inspection, such as holding the accelerator pedal down slightly during an idle test, disconnecting or crimping a vacuum hose to effect a passing result, or changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year to achieve a passing result.

(3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.

- 1           (4) Sell or otherwise give an inspection sticker to  
2 another other than as the result of a vehicle  
3 inspection in which the vehicle passed the  
4 inspection or for which the vehicle received a  
5 waiver.
- 6           (5) Be unable to account for five or more inspection  
7 stickers at any one time upon the request of an  
8 auditor of the Division.
- 9           (6) Perform a safety-only inspection on a vehicle that  
10 is subject to both a safety and an emissions  
11 inspection.
- 12          (7) Transfer an inspection sticker from one vehicle to  
13 another.
- 14   (b) Type II. -- It is a Type II violation for an emissions  
15 self-inspector, an emissions inspection station, or an emissions  
16 inspection mechanic to do any of the following:
- 17          (1) Use the identification code of another to gain  
18 access to an emissions analyzer.
- 19          (2) Keep inspection stickers and other compliance  
20 documents in a manner that makes them easily  
21 accessible to individuals who are not inspection  
22 mechanics.
- 23          (3) Put an emissions inspection sticker on a vehicle  
24 that is required to have one of the following  
25 emissions control devices but does not have it:
- 26           a. Catalytic converter.  
27           b. PCV valve.  
28           c. Thermostatic air control.  
29           d. Oxygen sensor.  
30           e. Unleaded gas restrictor.  
31           f. Gasoline tank cap.
- 32          (4) Put an emissions inspection sticker on a vehicle  
33 that is required to have one of the following  
34 systems without checking the system to determine if  
35 it is in good working order:
- 36           a. Exhaust system.  
37           b. Air injection system.  
38           c. Evaporative emission system.
- 39   (c) Type III. -- It is a Type III violation for an emissions  
40 self-inspector, an emissions inspection station, or an emissions  
41 inspection mechanic to do any of the following:
- 42          (1) Fail to post an emissions license issued by the  
43 Division.

- 1 (2) Fail to send information on emissions inspections  
2 to the Division at the time or in the form required  
3 by the Division.
- 4 (3) Fail to post emissions information required by  
5 federal law to be posted.
- 6 (4) Charge an amount for performing an inspection that  
7 differs from the amount set in this Part.
- 8 (5) Fail to put the required information on an  
9 inspection sticker in a legible manner using  
10 indelible ink.
- 11 (6) Fail to put the required information on an  
12 inspection receipt in a legible manner.
- 13 (7) Fail to maintain an emission analyzer calibration  
14 log.

15 (d) Other Acts. -- The lists in this section of the acts that  
16 are Type I, Type II, or Type III violations are not the only acts  
17 that are one of these types of violations. The Division may  
18 designate other acts that are a Type I, Type II, or Type III  
19 violation.

This section clarifies the penalty that applies when a vehicle that should not have passed emissions inspection receives a passing evaluation and, therefore, an emissions sticker, through negligence or oversight of the inspector. The current law has been interpreted to make the unintentional passes of below standard vehicles a Type I violation. This interpretation is contrary to the intent of the law, however. The section makes it clear that an unintentional pass of a below standard vehicle is a Type II rather than a Type I violation. The categorization of the violation is critical because a Type I violation carries an automatic license suspension but Type II does not.

20 Section 8. Article 3A of Chapter 20 of the General  
21 Statutes is amended by inserting a new statute between G.S.20-  
22 183.8C and 20-183.8D to read:

23 "§ 20-183.8C.1. Procedure for notifying a license holder of  
24 certain emission violations.

25 When an auditor of the Division finds that an emissions  
26 violation has occurred that could result in the loss of an  
27 emissions inspection station license, an emissions self-inspector  
28 license, or an emissions mechanic license, the auditor must give  
29 the affected license holders written notice of the finding. The  
30 notice must be given within five days after the violation  
31 occurred. The notice must state the monetary penalty that could  
32 apply to the violation as well as any period of suspension or  
33 revocation that could apply to the violation. The notice must

1 also inform the license holder of the right to a hearing if the  
2 adverse action is imposed.

This section specifies the procedure for assessing a Type I penalty violation. These violations require suspension of a license. The effective date of a finding of violation therefore determines when a station must stop doing business.

3 Section 9. G.S. 20-183.8D reads as rewritten:

4 "§ 20-183.8D. Suspension or revocation of ~~license for safety~~  
5 violations. license.

6 (a) Safety. -- The Division may suspend or revoke a safety  
7 self-inspector license, a safety inspection station license, and  
8 a safety inspection mechanic license issued under this Part if  
9 the license holder fails to comply with this Part or a rule  
10 adopted by the Commissioner to implement this Part.

11 (b) Emissions. -- The Division may suspend or revoke an  
12 emissions self-inspector license, an emissions inspection station  
13 license, and an emissions inspection mechanic license issued  
14 under this Part for any of the following reasons:

15 (1) The suspension or revocation is imposed under G.S.  
16 20-183.8B.

17 (2) Failure to pay a civil penalty imposed under G.S.  
18 20-183.8B within 30 days after it is imposed."

This section makes failure to pay a civil penalty a grounds for revoking an emissions license. Current law does not address this.

19 Section 10. G.S. 20-99(e) reads as rewritten:

20 "(e) The provisions, procedures, and remedies provided in this  
21 section ~~shall be applicable~~ apply to the collection of penalties  
22 imposed under the provisions of Article 3A of this Chapter and of  
23 G.S. 20-96, 20-118, or any other provisions of this Chapter  
24 imposing a tax or penalty for operation of a vehicle in excess of  
25 the weight limits provided in this Chapter and the Commissioner  
26 is authorized to collect such taxes or penalties by the use of  
27 the procedure established in subsections (a), (b), (c) and (d) of  
28 this section."

29 Section 11. G.S. 20-183.8(c), as amended by Section 5 of  
30 this act, becomes effective November 1, 1997, and applies to  
31 offenses committed on or after that date. The remaining changes  
32 made by Section 5 of this act and the other sections of this act  
33 become effective July 1, 1997.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 7

97-LJ-17

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Ensure Uniform Emissions Fee.

(Public)

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Sponsors: Transportation Oversight.

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THAT THE FEE SET BY LAW FOR A VEHICLE EMISSIONS  
3 INSPECTION IS A UNIFORM, STATEWIDE FEE.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 20-183.7(a) reads as rewritten:

6 "(a) Fee Amount. -- When a fee applies to an inspection of a  
7 vehicle or the issuance of an inspection sticker, the fee must be  
8 collected. The following fees apply to an inspection of a  
9 vehicle and the issuance of an inspection sticker:

| 10 | Type                            | Inspection | Sticker |
|----|---------------------------------|------------|---------|
| 11 | Safety Only, Without After-     |            |         |
| 12 | Factory Tinted Window           | \$ 8.25    | \$ 1.00 |
| 13 | Safety Only, With After-Factory |            |         |
| 14 | Tinted Window                   | 18.25      | 1.00    |
| 15 | Emissions and Safety, Without   |            |         |
| 16 | After-Factory Tinted Window     | 17.00      | 2.40    |
| 17 | Emissions and Safety, With      |            |         |
| 18 | After-Factory Tinted Window     | 27.00      | 2.40.   |

19 The fee for performing an inspection of a vehicle applies when  
20 an inspection is performed, regardless of whether the vehicle  
21 passes the inspection. The fee for an inspection sticker applies  
22 when an inspection sticker is put on a vehicle. The fee for  
23 performing an inspection of a vehicle with a tinted window

1 applies only to an inspection performed with a light meter after  
2 a safety inspection mechanic determined that the window had  
3 after-factory tint.

4 A vehicle that is inspected at an inspection station and fails  
5 the inspection is entitled to be reinspected at the same station  
6 at any time within 30 days of the failed inspection without  
7 paying another inspection fee."

8 Section 2. This act is effective when it becomes law.  
9

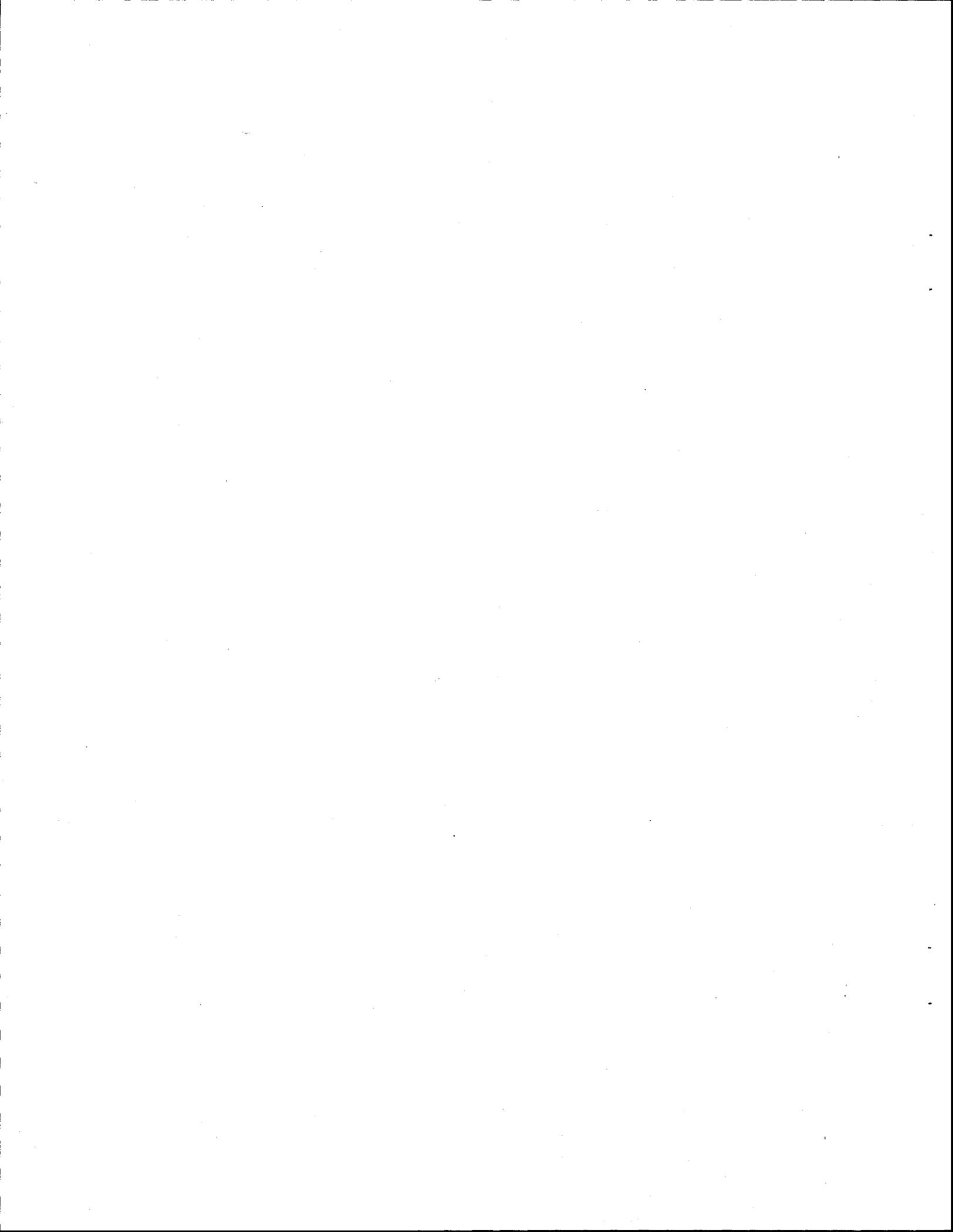
#### Explanation of Proposal

This proposal makes it clear that the statutory fee for a vehicle emissions inspection must be charged for each inspection. This is the current interpretation and intent. A fee that is lower or higher than the set amount is not allowed.



1 ~~(c) The fee collected under subsection (a) shall be credited to~~  
2 ~~the Highway Fund. The fee collected under subsection (b) shall~~  
3 ~~be credited to the Highway Trust Fund."~~

4 Section 2. This act becomes effective December 1, 1997.



Explanation of Legislative Proposal 8

No fee for mail-in registration

This draft would eliminate the \$1 additional fee currently charged by the Division of Motor Vehicles to persons who renew their vehicle registration by mail.



1 considered a lesser class of license than its commercial  
2 counterpart.

3 The classes of regular drivers licenses and the motor vehicles  
4 that can be driven with each class of license are:

5 (1) Class A. -- A Class A license authorizes the holder  
6 to drive any of the following:

7 a. A Class A motor vehicle that is exempt under  
8 G.S. 20-37.16 from the commercial drivers  
9 license requirements.

10 b. A Class A motor vehicle that has a combined  
11 GVWR of less than 26,001 pounds and includes  
12 as part of the combination a towed unit that  
13 has a GVWR of at least 10,001 pounds.

14 (2) Class B. -- A Class B license authorizes the holder  
15 to drive any Class B motor vehicle that is exempt  
16 under G.S. 20-37.16 from the commercial drivers  
17 license requirements.

18 (3) Class C. -- A Class C license authorizes the holder  
19 to drive any of the following:

20 a. A Class C motor vehicle that is not a  
21 commercial motor vehicle.

22 b. When operated by a volunteer member of a fire  
23 department, a rescue squad, or an emergency  
24 medical service (EMS) in the performance of  
25 duty, a Class A or Class B fire-fighting,  
26 rescue, or EMS motor vehicle or a combination  
27 of these vehicles.

28 The Commissioner may assign a unique motor vehicle to a class  
29 that is different from the class in which it would otherwise  
30 belong.

31 A new resident of North Carolina who has a drivers license  
32 issued by another jurisdiction must obtain a license from the  
33 Division within ~~30~~ 60 days after becoming a resident."

34 Section 3. G.S. 20-7(f) reads as rewritten:

35 " (f) Expiration and Temporary License. -- The first drivers  
36 license the Division issues to a person expires on the person's  
37 fourth or subsequent birthday that occurs after the license is  
38 issued and on which the individual's age is evenly divisible by  
39 five, unless this subsection sets a different expiration date.  
40 The first drivers license the Division issues to a person who is

1 at least 17 years old but is less than 18 years old expires on  
2 the person's twentieth birthday. The first drivers license the  
3 Division issues to a person who is at least 62 years old expires  
4 on the person's birthday in the fifth year after the license is  
5 issued, whether or not the person's age on that birthday is  
6 evenly divisible by five.

7 A drivers license that was issued by the Division and is  
8 renewed by the Division expires five years after the expiration  
9 date of the license that is renewed. A person may apply to the  
10 Division to renew a license during the 60-day period before the  
11 license expires. The Division may not accept an application for  
12 renewal made before the 60-day period begins.

13 ~~Any person serving in the armed forces of the United States on~~  
14 ~~active duty and holding a valid drivers license properly issued~~  
15 ~~under this section and stationed outside the State of North~~  
16 ~~Carolina may renew the license by making application to the~~  
17 ~~Division by mail. Any other person, except a nonresident, who~~  
18 ~~holds a valid drivers license issued under this section and who~~  
19 ~~is temporarily residing outside North Carolina, may also renew by~~  
20 ~~making application to the Division by mail. For purposes of this~~  
21 ~~section "temporarily" shall mean not less than 30 days continuous~~  
22 ~~absence from North Carolina. In either case, the~~

23 The Division may renew by mail a drivers license issued by the  
24 Division to a person who meets any of the following descriptions:

25 (1) Is serving on active duty in the armed forces of  
26 the United States and is stationed outside this  
27 State.

28 (2) Is a resident of this State and has been residing  
29 outside the State for at least 30 continuous days.

30 When renewing a license by mail, the Division may waive the  
31 examination and color photograph that would otherwise be required  
32 for the renewal of a drivers license, for the renewal and may  
33 impose in lieu thereof any conditions it considers appropriate to  
34 each particular application, finds advisable. A license renewed  
35 by mail is a temporary license that expires 30 60 days after the  
36 person to whom it is issued returns to this State."

37 Section 4. G.S. 20-7.1 reads as rewritten:

38 "§ 20-7.1. Notification Notice of change of address, address or  
39 name.

1 ~~Whenever the holder of a license issued under the provision of~~  
2 ~~G.S. 20-7 has a change in the address as shown on such license,~~  
3 ~~he or she shall apply for a duplicate license within 60 days~~  
4 ~~after such address has been changed. Provided, that if the~~  
5 ~~licensee's mailing address has been changed by governmental~~  
6 ~~action and there has been no actual change of residence location,~~  
7 ~~upon giving notice in writing to the Division of Motor Vehicles~~  
8 ~~in Raleigh within 60 days of this change of address, the licensee~~  
9 ~~may use his current license or permit until its expiration or~~  
10 ~~obtain a duplicate license or permit showing the new address upon~~  
11 ~~payment of the required fee. No person shall be charged with~~  
12 ~~having violated this section when only his mailing address has~~  
13 ~~been changed by governmental action.~~

14 (a) Address. -- A person whose address changes from the address  
15 stated on a drivers license must notify the Division of the  
16 change within 60 days after the change occurs. If the person's  
17 address changed because the person moved, the person must obtain  
18 a duplicate license within that time limit stating the new  
19 address. A person who does not move but whose address changes  
20 due to governmental action may not be charged with violating this  
21 subsection.

22 (b) Name. -- A person whose name changes from the name stated  
23 on a drivers license must notify the Division of the change  
24 within 60 days after the change occurs and obtain a duplicate  
25 drivers license stating the new name,

26 (c) Fee. -- G.S. 20-14 sets the fee for a duplicate license."

27 Section 5. G.S. 20-37.12(e) reads as rewritten:

28 "(e) In accordance with G.S. 20-7, G.S. 20-7 sets the time  
29 period in which a new resident of North Carolina has 30 days to  
30 must obtain a license from the Division. The Commissioner may  
31 establish by rule the conditions under which the test  
32 requirements for a commercial drivers license may be waived for a  
33 new resident who is licensed in another state."

34 Section 6. G.S. 20-37.9 reads as rewritten:

35 "§ 20-37.9. ~~Notification~~ Notice of change of address, address or  
36 name.

37 ~~Whenever the holder of a special identification card issued~~  
38 ~~under G.S. 20-37.7 has a change in the address as shown on the~~  
39 ~~special identification card, he or she shall apply for reissuance~~  
40 ~~of a special identification card within 60 days after the address~~

1 ~~has been changed. The fee for reissuance of a special~~  
2 ~~identification card is the same as the fee set in G.S. 20-37.7~~  
3 ~~for issuing a special identification card. If a change of~~  
4 ~~address is the result of governmental action and there is no~~  
5 ~~actual change of geographical location, the holder of the card is~~  
6 ~~not required to change the address on the card until the Division~~  
7 ~~issues the holder another card.~~

8 (a) Address. -- A person whose address changes from the address  
9 stated on a special identification card must notify the Division  
10 of the change within 60 days after the change occurs. If the  
11 person's address changed because the person moved, the person  
12 must obtain a new special identification card within that time  
13 limit stating the new address. A person who does not move but  
14 whose address changes due to governmental action may not be  
15 charged with violating this subsection.

16 (b) Name. -- A person whose name changes from the name stated  
17 on a special identification card must notify the Division of the  
18 change within 60 days after the change occurs and obtain a new  
19 special identification card stating the new name,

20 (c) Fee. -- G.S. 20-37.7 sets the fee for a special  
21 identification card."

22 Section 7. G.S. 20-67 reads as rewritten:

23 "\$ 20-67. Notice of change of address or name.

24 (a) Address. -- Whenever any person, after making application  
25 for or obtaining the registration of a vehicle or a certificate  
26 of title, shall move from the A person whose address named in the  
27 application or shown upon a registration card or certificate of  
28 title, such person shall within 30 days thereafter notify the  
29 Division in writing of his old and new addresses. changes from  
30 the address stated on a certificate of title or registration card  
31 must notify the Division of the change within 60 days after the  
32 change occurs. The person may obtain a duplicate certificate of  
33 title or registration card stating the new address but is not  
34 required to do so. A person who does not move but whose address  
35 changes due to governmental action may not be charged with  
36 violating this subsection.

37 (b) Name. -- Whenever the name of any person who has made  
38 application for or obtained the registration of a vehicle or a  
39 certificate of title is thereafter changed by marriage or  
40 otherwise, such person shall thereafter forward or cause to be

1 ~~forwarded to the Division the certificate of title and to make~~  
2 ~~application for correction of the certificate on forms provided~~  
3 ~~by the Division. A person whose name changes from the name stated~~  
4 ~~on a certificate of title or registration card must notify the~~  
5 ~~Division of the change within 60 days after the change occurs.~~  
6 ~~The person may obtain a duplicate certificate of title or~~  
7 ~~registration card but is not required to do so.~~  
8 ~~(c) Fee. -- G.S. 20-85 sets the fee for a duplicate certificate~~  
9 ~~of title or registration card."~~

10 Section 8. This act becomes effective December 1, 1997.

## Explanation of Legislative Proposal 9

### 60 Days To Change DMV Information

This proposal establishes 60 days as the standard time period in which a new resident of this State must obtain a drivers license, a special identification card, or a vehicle registration and in which a current resident of this State must notify the Division of a change of address or name. It also makes standard a requirement that a person whose name changes notify the Division of the change within 60 days. Further, it establishes a standard requirement that a person who has not moved but whose address has changed must notify the Division of the change. Finally, it makes clarifying changes to the affected statutes.

Under current law, some of these time periods are 30 days, some are 60 days, and some are unlimited and no notice is required in some instances for a change of name. The current law is as follows:

| <u>Circumstance</u>                                     | <u>Days<br/>Allowed</u>             | <u>Statute</u>              |
|---|-------------------------------------|-----------------------------|
| New resident to obtain license                          | 30                                  | 20-4.6                      |
| New resident to obtain license                          | 30                                  | 20-7(a),<br>20-<br>37.12(e) |
| Renewal of temporary license upon<br>return to State    | 30                                  | 20-7(f)                     |
| Notice of change of address for<br>license              | 60                                  | 20-7.1,<br>20-<br>37.15(b)  |
| Notice of change of name for license                    | 60, but<br>required only<br>for CDL | 20-<br>37.15(b)             |
| Notice of change of address for<br>special id card      | 60                                  | 20-37.9                     |
| Notice of change of name for special<br>id card         | Not required                        |                             |
| Notice of change of address for<br>vehicle registration | 30                                  | 20-67(a)                    |
| Notice of change of name for vehicle<br>registration    | Unlimited                           | 20-67(b)                    |

Section 1 repeals G.S. 20-4.6 because it is unnecessary and confusing. The section addresses privileges of vehicles registered in another state and requires new residents to register their vehicles with the Division within 30 days after becoming a resident. The part that addresses privileges of

vehicles registered in another state conflicts with G.S. 20-4.8, which is the controlling law, and the part that sets a time limit for a new resident to register a vehicle both conflicts with the proposed 60-day limit and unnecessarily repeats G.S. 20-67.

Section 2 changes the time in which a new resident must obtain a drivers license from 30 days to 60 days.

Section 3 extends from 30 days to 60 days the time in which a person who has a temporary drivers license must obtain a regular license. The Division can issue a temporary drivers license by mail as the renewal of a license previously issued by the Division when the license holder is out of the State. A temporary license now expires 30 days after the license holder returns to the State.

Section 4 rewrites the statute requiring a duplicate license for a change of address to add a requirement to notify the Division of a change of name. Notification of a change of name is now required for a commercial drivers license but not a regular license. Lack of correct names is part of the reason the Division cannot currently match many license revocation orders to licensed drivers. G.S. 20-37.15(b), in the commercial drivers license provisions, states that when a person's name changes, the person must apply for a duplicate license as provided in G.S. 20-7.1. Currently, however, G.S. 20-7.1 does not address obtaining a duplicate when a name changes. The rewritten section adds a cross-reference to the fee for a duplicate license but does not impose a new fee. Failure to obtain a duplicate license as required is a Class 2 misdemeanor under G.S. 20-35.

Section 5 makes a conforming change to the CDL statutes. The relevant statute now unnecessarily repeats the time period in which a new resident must obtain a drivers license. This section deletes the current 30-day limit and substitutes a cross reference to the new 60-day limit.

Section 6 conforms the special id statute to the drivers license statute with respect to notice of a change of address or name. The special id statute currently does not require notification of a change of name. Also, the statute is not clear whether a person whose address has changed but who has not moved must notify the Division. As interpreted, the statute means that a person in this circumstance must notify the Division but is not required to get a new special id card.

Section 7 rewrites the statute requiring a person to notify DMV of a change of name or address for purposes of vehicle registration. The statute clarifies that a person who has not

moved but whose address has changed must notify the Division of the change. This is the practice although the statute addresses only a move. In making this change, the statute is conformed to the drivers license change of address provisions. The rewritten section also adds a cross reference to the fee for a duplicate certificate of title or duplicate fee. It does not change the fee, however. Failure to notify the Division of a change or address or name as required is a Class 2 misdemeanor under G.S. 20-176.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

LEGISLATIVE PROPOSAL 10

97-DRW-001.01

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Motor vehicle salvage changes.

(Public)

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Sponsors:

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO REDUCE BY HALF THE NUMBER OF SALVAGE INSPECTIONS  
3 PERFORMED BY DMV ENFORCEMENT AND TO ELIMINATE ISSUANCE OF  
4 UNBRANDED TITLES FOR VEHICLES BRANDED IN OTHER STATES.  
5 The General Assembly of North Carolina enacts:  
6           Section 1. G.S. 20-17.3 reads as rewritten:  
7 "§ 20-71.3. Titles and registration cards to be branded.  
8 Motor Vehicle certificates of title and registration cards  
9 issued pursuant to G.S. 20-57 shall be branded. As used herein  
10 "branded" means that the title and registration card shall  
11 contain a designation that discloses if the vehicle is classified  
12 as (a) Flood Vehicle, (b) Non-U.S.A. Vehicle, (c) Reconstructed  
13 Vehicle, (d) Salvage Motor Vehicle, or (e) Salvage Rebuilt  
14 Vehicle or other classification authorized by law. Any motor  
15 vehicle damaged by collision or other occurrence up to six model  
16 years old which is to be retitled in this State shall be subject  
17 to preliminary and final inspections by the Enforcement Section  
18 of the Division, and the Division shall refuse to issue a title  
19 to a vehicle up to six model years old which has not undergone a  
20 preliminary inspection. These inspections serve as an anti-theft

1 measure and in no way should be construed to certify the safety  
2 or roadworthiness of a vehicle. Any motor vehicle which has been  
3 branded in another state shall be branded with the nearest  
4 applicable brand specified in this section, except that no junk  
5 vehicle or vehicle that has been branded junk in another state  
6 shall be titled or registered. ~~A motor vehicle titled in another~~  
7 ~~state and damaged by collision or other occurrence may be~~  
8 ~~repaired and an unbranded title issued in North Carolina only if~~  
9 ~~the cost of repairs, including parts and labor, does not exceed~~  
10 ~~seventy five percent (75%) of its fair market retail value.~~ The  
11 Commissioner shall prepare necessary forms and may adopt  
12 regulations required to carry out the provisions of this Part 3A.  
13 The title shall reflect the branding until surrendered to or  
14 cancelled by the Commissioner."

15           Sec. 2. G.S. 20-71.4 reads as rewritten:

16 "§ 20-71.4. Failure to disclose damage to a vehicle shall be a  
17 misdemeanor.

18 (a) It shall be unlawful and constitute a Class 2 misdemeanor  
19 for any transferor who knows or reasonably should know that a  
20 motor vehicle has been involved in a collision or other  
21 occurrence to the extent that the cost of repairing that vehicle  
22 exceeds twenty-five percent (25%) of its fair market retail  
23 value, or that the motor vehicle is, or was, a flood vehicle, a  
24 reconstructed vehicle, or a salvage motor vehicle, to fail to  
25 disclose that fact in writing to the transferee prior to transfer  
26 of any vehicle up to ~~five~~ six model years old. Failure to  
27 disclose any of the above information will also result in civil  
28 liability under G.S. 20-348. The Commissioner may prepare forms  
29 to carry out the provisions of this section.

30 (b) It shall be unlawful for any person to remove the title or  
31 supporting documents to any motor vehicle from the State of North  
32 Carolina with the intent to conceal damage (or damage which has  
33 been repaired) occurring as a result of a collision or other  
34 occurrence. Violation of this statute shall constitute a Class 2  
35 misdemeanor."

36           Sec. 3. This act becomes effective July 1, 1997.

## Explanation of Legislative Proposal 10

### Motor Vehicle Salvage Changes

Since 1989, the Enforcement Section of DMV has been required by G.S. 20-71.3 to do preliminary and final inspection of all vehicles that have been damaged in collisions, and are to be retitled. This generally means cars that have been "totaled" and are being repaired for resale.

DMV Enforcement carries out approximately 50,000 salvage inspections each year.

The MGT audit of DMV, completed in April, 1996 found these inspections "costly and ineffective" and recommended that the number of inspections be reduced.

This proposal reduces by half the number of salvage inspections performed by DMV Enforcement, and also eliminates issuance of unbranded titles for vehicles branded in other states.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

LEGISLATIVE PROPOSAL 11

97-DRW-013

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Reduce DMV Enforcement Positions. (Public)

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Sponsors:

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO REDUCE THE NUMBER OF POSITIONS IN THE DIVISION OF MOTOR  
3 VEHICLES ENFORCEMENT SECTION.  
4 The General Assembly of North Carolina enacts:  
5           Section 1. Fifty positions in the Enforcement Section  
6 of the Division of Motor Vehicles of the Department of  
7 Transportation are eliminated effective July 1, 1998.  
8           Sec. 2. This act becomes effective July 1, 1997.

Explanation of Legislative Proposal 11

Reduce DMV Enforcement Staff

This proposal eliminates 17 positions in DMV Enforcement, which corresponds to the number of personnel currently performing the salvage inspections that would be eliminated by Legislative Proposal 10.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

LEGISLATIVE PROPOSAL 12A  
SENATE JOINT RESOLUTION 97-RW-230  
THIS IS A DRAFT 23-JAN-97 16:19:55

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Sponsors:

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Referred to:

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1 A JOINT RESOLUTION URGING CONGRESS TO REPEAL THE DRIVER'S PRIVACY  
2 PROTECTION ACT OF 1994.

3 WHEREAS, North Carolina has an open public records  
4 policy; and

5 WHEREAS, the Driver's Privacy Protection Act; of 1994  
6 (18 U.S.C. §§2721 et sec.) will substantially restrict access to  
7 North Carolina's public records; and

8 WHEREAS, the act is an unnecessary and unconstitutional  
9 intrusion on the right of the State to control its own public  
10 records; and

11 WHEREAS, the implementation of the act will increase  
12 costs in the Division of Motor Vehicles by requiring additional  
13 staff time, and by consuming limited staff time, constituting an  
14 "unfunded mandate"; Now, therefore,  
15 Be it resolved by the Senate, the House of Representatives  
16 concurring:

17 Section 1. The General Assembly urges Congress to  
18 repeal the Driver's Privacy Protection Act of 1994  
19 (18(U.S.C. §§2721 et seq.).

20 Section 2. This resolution is effective upon  
21 ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

LEGISLATIVE PROPOSAL 12B  
HOUSE JOINT RESOLUTION 97-RW-230  
THIS IS A DRAFT 23-JAN-97 16:19:55

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Sponsors:

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Referred to:

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1 A JOINT RESOLUTION URGING CONGRESS TO REPEAL THE DRIVER'S PRIVACY  
2 PROTECTION ACT OF 1994.

3 WHEREAS, North Carolina has an open public records  
4 policy; and

5 WHEREAS, the Driver's Privacy Protection Act; of 1994  
6 (18 U.S.C. §§2721 et sec.) will substantially restrict access to  
7 North Carolina's public records; and

8 WHEREAS, the act is an unnecessary and unconstitutional  
9 intrusion on the right of the State to control its own public  
10 records; and

11 WHEREAS, the implementation of the act will increase  
12 costs in the Division of Motor Vehicles by requiring additional  
13 staff time, and by consuming limited staff time, constituting an  
14 "unfunded mandate"; Now, therefore,

15 Be it resolved by the Senate, the House of Representatives  
16 concurring:

17 Section 1. The General Assembly urges Congress to  
18 repeal the Driver's Privacy Protection Act of 1994  
19 (18(U.S.C. §§2721 et seq.).

20 Section 2. This resolution is effective upon  
21 ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

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LEGISLATIVE PROPOSAL 12C

97-RW-231

THIS IS A DRAFT 23-JAN-97 16:19:55

Short Title: Indemnify State Employees/Privacy Act. (Public)

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Sponsors:

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO INDEMNIFY STATE EMPLOYEES FOR ANY LEGAL COSTS  
3 ASSOCIATED WITH NONCOMPLIANCE WITH THE FEDERAL DRIVER'S PRIVACY  
4 PROTECTION ACT.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 20 of the North Carolina General  
7 Statutes is amended by adding a new section to read:

8 "§ 20-43.1 Indemnation.

9 The State shall indemnify all employees or officers of the  
10 State for any attorney's fees, damages, or other costs incurred  
11 due to any legal proceeding asserting noncompliance with the  
12 provision of the Driver's Privacy protection Act of 1994 (18  
13 U.S.C. §§2721 et sec.), or any amendments to that act."

14 Section 2. This act is effective when it becomes law.

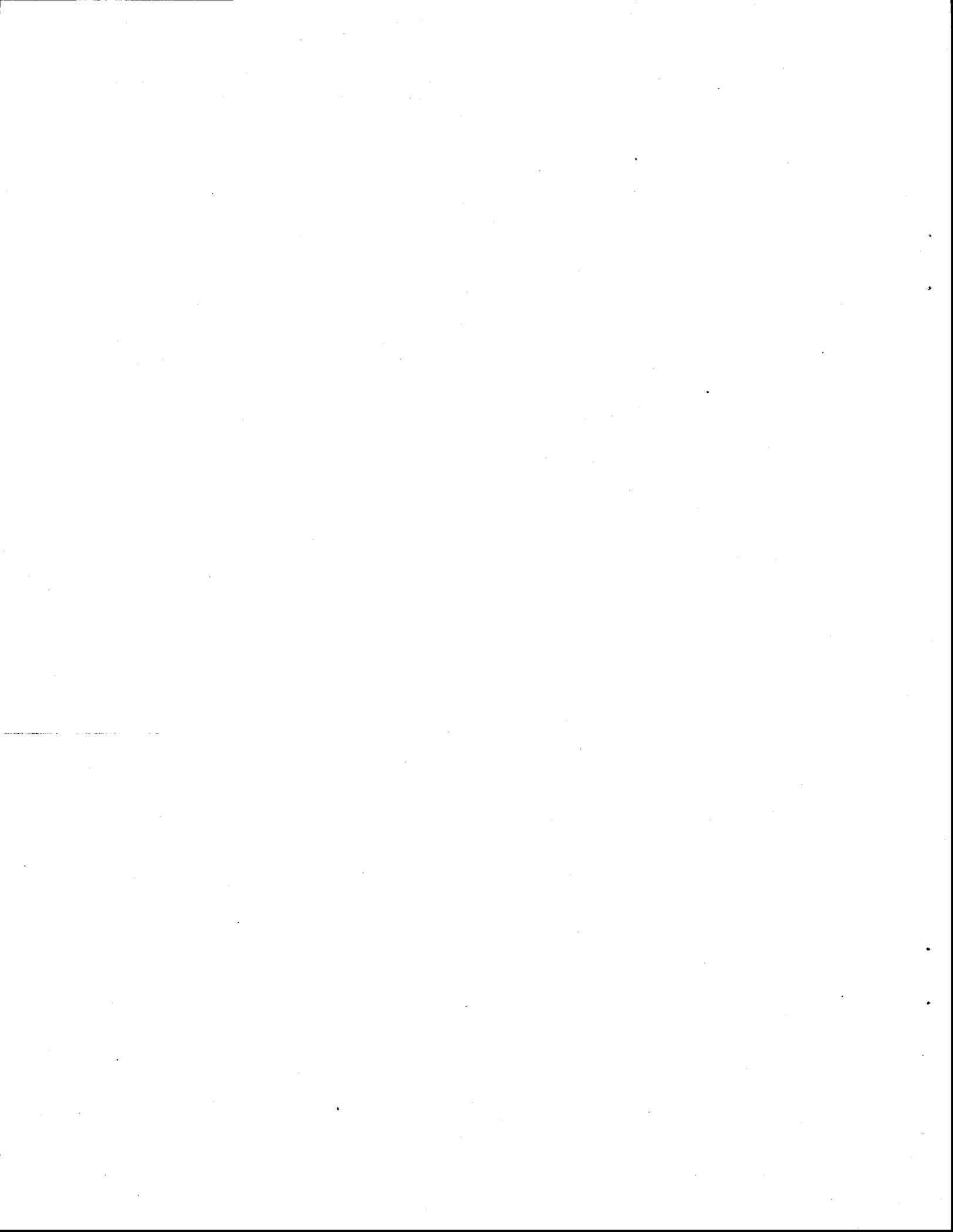
## Explanation of Legislative Proposal 12

### Federal Driver's Privacy Protection Act

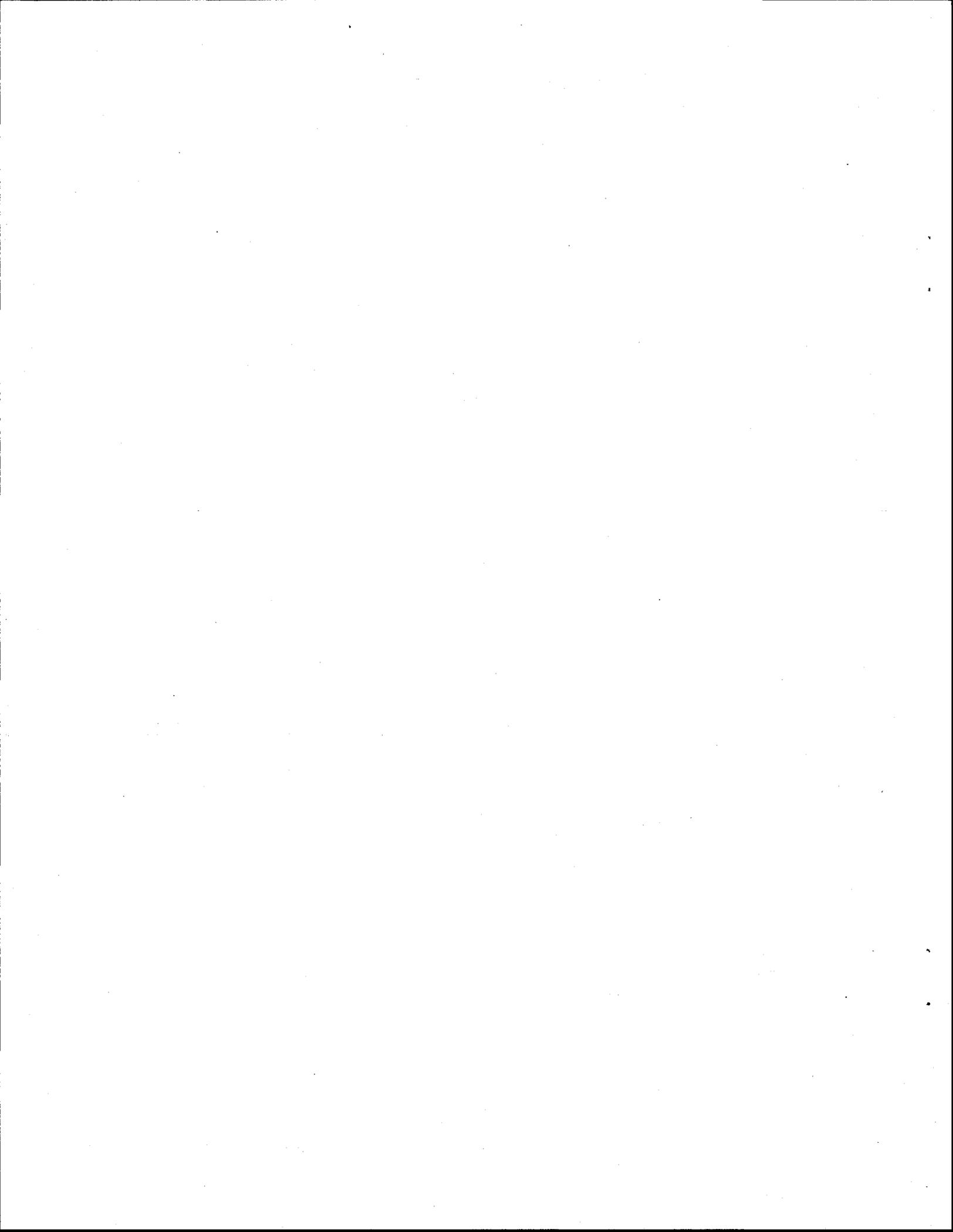
The 1994 federal Driver's Privacy Protection Act (18 U.S.C. §§2721 et seq.), effective September 1997, requires the N.C. Division of Motor Vehicles to close access to DMV records in most cases to prevent disclosure of "personal information" such as names, addresses, and phone numbers. Current N.C. law provides that DMV records are open as public records, except for photos, medical information, and Social Security numbers.

This change in federal law was sponsored as an amendment to the 1994 federal crime bill by Senator Barbara Boxer (D-California) in response to a stalking and murder in California where information on the address of the victim was obtained from California's DMV for the perpetrator by a private detective.

This Legislative Proposal reflects the Committee's decision on January 15, 1997 to oppose the federal Act, ask Congress to consider repeal, and indemnify State employees for any violation of the Act while a challenge is pursued.



**MANDATED  
REPORTS**

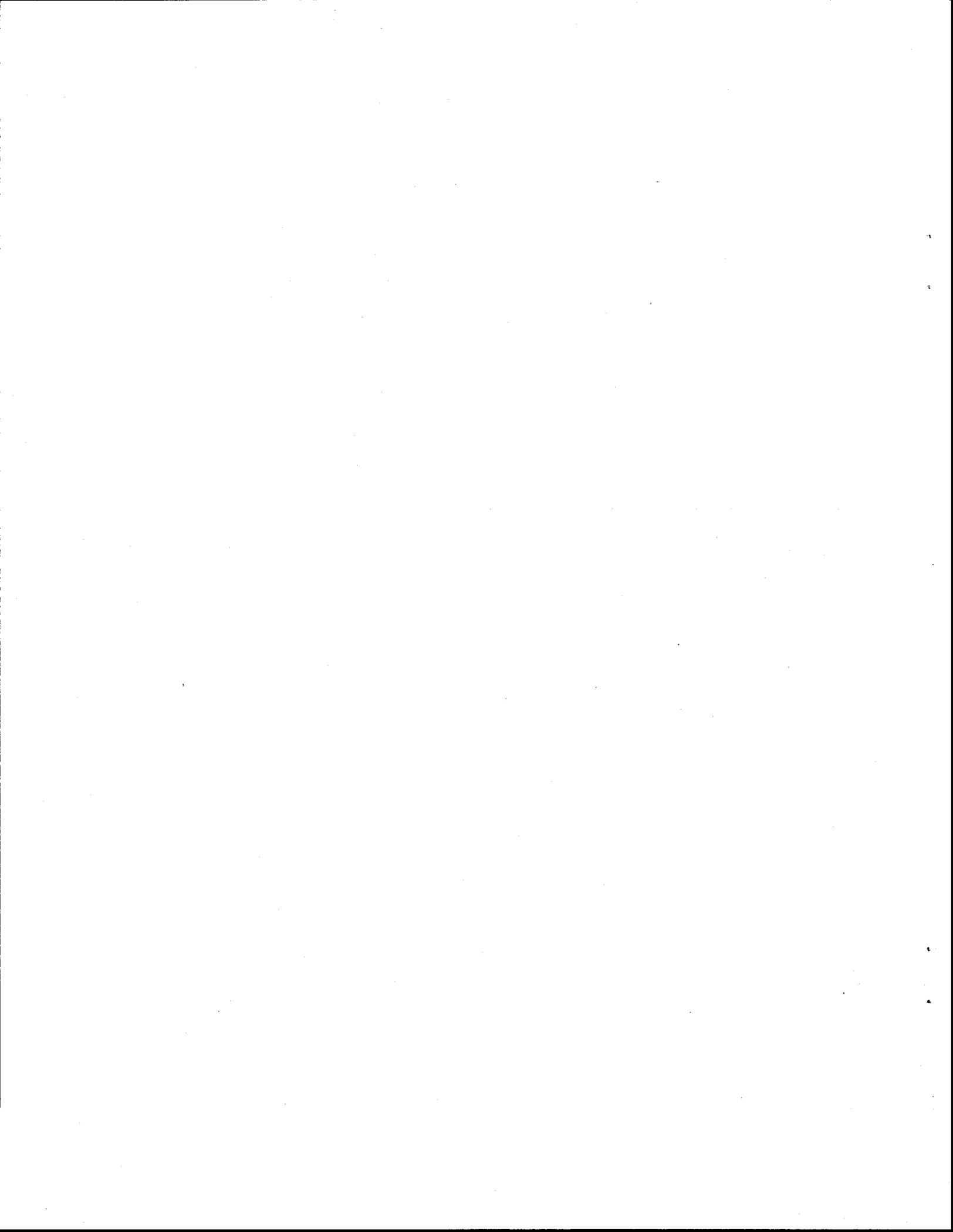


## Mandated Reports Presented to the Committee By DOT

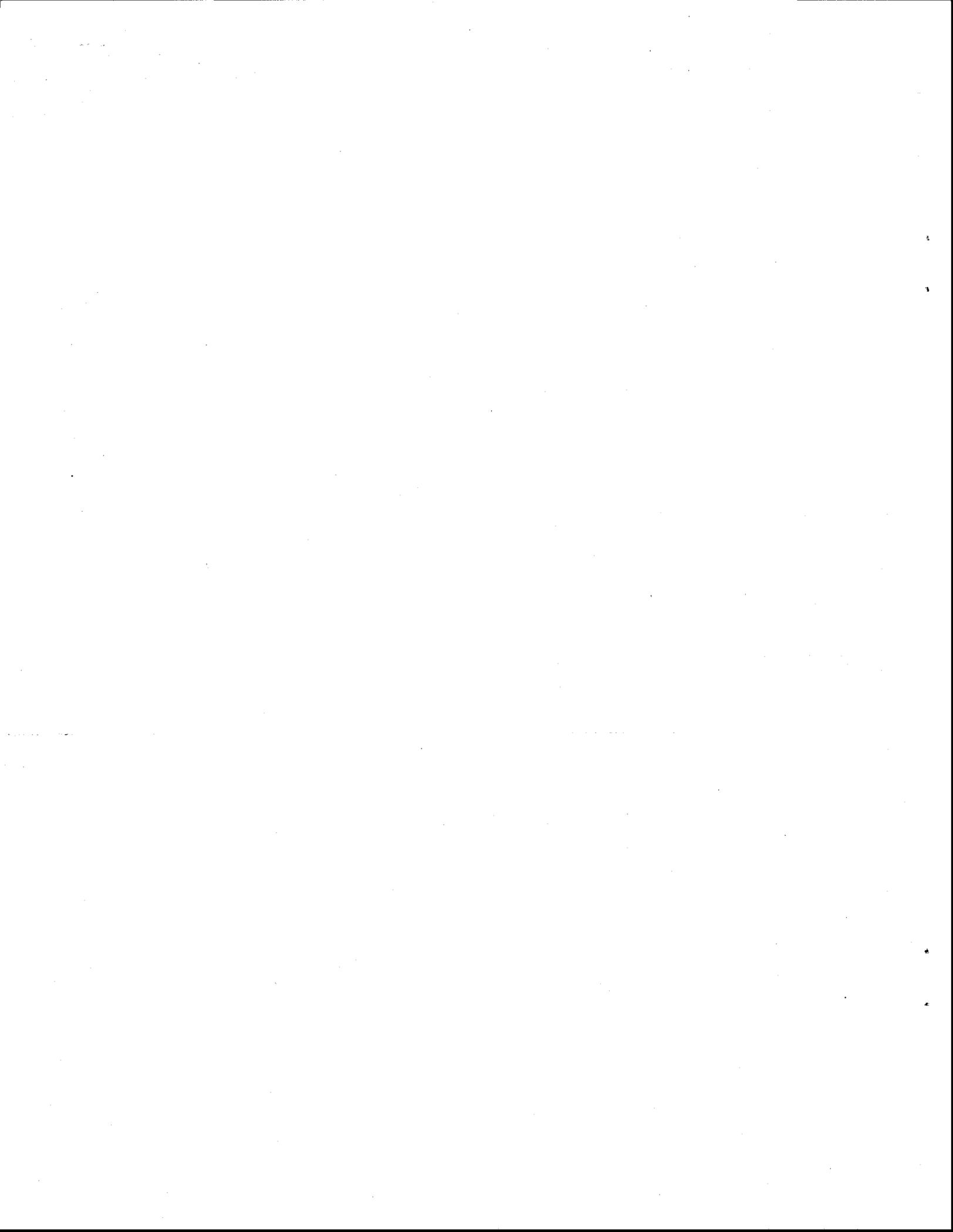
| <u>Report Topic</u>                   | <u>Date Presented</u>               |
|---------------------------------------|-------------------------------------|
| Technology Improvements Study Plan    | November 14, 1996                   |
| Cash Flow Construction Projects       | November 14, 1996, January 15, 1997 |
| Vehicle Salvage Law Changes           | November 14, 1996                   |
| Driver License Office Location Plan   | November 14, 1996, January 15, 1997 |
| IRP Software Improvement Plan         | December 12, 1996                   |
| Automated Systems Technical Support   | December 12, 1996                   |
| Implementation of DMV Audit Findings  | January 15, 1996                    |
| Green Roads Initiative Implementation | January 15, 1996                    |
| Visitor Center Funding                | January 15, 1996                    |

### **Mandated Committee Study**

The Committee fulfilled the requirement of Section 19.14 of Chapter 18 of the 1996 Session Laws that it study driver education programs. A report by Committee staff on the subject was received and discussed.



**RESULTS OF  
1996  
LEGISLATIVE PROPOSALS**



| <u>1996 Proposal</u>                 | <u>Bill Number</u> | <u>Sponsor</u> | <u>Final Status</u>   |
|--------------------------------------|--------------------|----------------|-----------------------|
| 1. Expedite Towed Vehicle Disposal   | HB 1268            | Bowie          | Ratified              |
| 2. Speed Limits                      | SB 1270            | Hoyle          | Ratified              |
| 3. Utility Pole Extension            | SB 1181            | Hoyle          | Ratified              |
| 4. Vehicle May Not Tow Sled          | HB 1142            | McLaughlin     | House Transportation  |
| 5. No Fee For Mail-In Registration   | HB 1266            | Bowie          | House Finance         |
| 6. County Remove Registration Block  | SB 1165            | Gulley         | Ratified              |
| 7. Delete "L" CDL Endorsement        | HB 1182            | McLaughlin     | Ratified              |
| 8. 60 Days To Change DMV Info        | HB 1183            | McLaughlin     | Senate Transportation |
| 9. Digitized Imagery License Changes | HB 1141            | McLaughlin     | Ratified              |
| 10. DMV Trucking/Technical Changes   | SB 1274            | Hoyle          | Ratified              |
| 11. Privatize All DMV Tag Offices    | SB 1250            | Horton         | Senate Transportation |

